



IOWA ADMINISTRATIVE BULLETIN

Published Biweekly

VOLUME XXIX
October 11, 2006

NUMBER 8
Pages 473 to 532

CONTENTS IN THIS ISSUE

Pages 485 to 531 include **ARC 5413B** to **ARC 5436B** and **ARC 5438B** to **ARC 5460B**

AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

- Filed, Grape and wine development funding
program, ch 52 **ARC 5458B** 515
- Filed, Registration of Iowa-foaled horses,
62.37(1) **ARC 5453B** 515

ALL AGENCIES

- Schedule for rule making 476
- Publication procedures 477
- Administrative rules on CD-ROM 477
- Agency identification numbers 483

ARCHITECTURAL EXAMINING BOARD[193B]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]"umbrella"

- Notice, Registration, 2.6 to 2.11 **ARC 5445B** 485

COLLEGE STUDENT AID COMMISSION[283]

EDUCATION DEPARTMENT[281]"umbrella"

- Filed, Federal family education loan programs,
amendments to ch 10 **ARC 5448B** 515

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

- Filed, Grow Iowa values fund assistance;
high quality job creation program, 2.4(2),
68.1, 68.3(3) **ARC 5439B** 516
- Filed, Enterprise zones, 59.2 to 59.4, 59.6
ARC 5440B 516
- Filed, Port authority grant program, ch 70
ARC 5441B 517
- Filed, Targeted jobs withholding tax credit
program, ch 71 **ARC 5442B** 517
- Filed, Definition of "employee," 168.301,
168.302 **ARC 5443B** 520

EDUCATION DEPARTMENT[281]

- Notice, Open enrollment, 17.2, 17.3(2), 17.4,
17.5(1), 17.7, 17.8, 17.10, 17.14(4)
ARC 5415B 486
- Notice, Educational improvement projects,
rescind ch 62 **ARC 5416B** 488
- Filed, School buses, amendments to ch 44
ARC 5424B 520

ENVIRONMENTAL PROTECTION COMMISSION[567]

NATURAL RESOURCES DEPARTMENT[561]"umbrella"

- Notice, Tax certification of pollution control
or recycling property, 11.6 **ARC 5450B** 489
- Notice, Construction permitting fees,
43.3(3)"c" **ARC 5449B** 490
- Filed Without Notice, Private well sampling,
rehabilitation, and closure—grants to counties,
rescind ch 47 **ARC 5460B** 520
- Filed Without Notice, Federal effluent and
pretreatment standards and associated analytical
methods—update of references, 60.2, 62.4,
62.5, 63.1(1) **ARC 5459B** 521

HUMAN SERVICES DEPARTMENT[441]

- Notice, Medicaid home- and community-based
services elderly waiver—case management,
77.33(21), 78.37, 79.1(2), 83.21, 83.22, 83.26
ARC 5414B 490
- Amended Notice, Administration of state payment
program, 88.61, 88.62(1), 88.63, 88.68(2),
88.71(2), 88.72(2), 153.51, 153.52(1),
153.53 to 153.59 **ARC 5451B** 491
- Notice, State payment program appropriation—
allocation to counties, 153.51, 153.53, 153.55,
153.56(1), 153.57 **ARC 5418B** 492
- Filed Emergency, Food assistance—electronic
application via Internet, 65.2(1) **ARC 5413B** 507
- Filed Emergency, Medicaid home- and
community-based services elderly waiver—
case management, 77.33(21), 78.37, 79.1(2),
83.21, 83.22, 83.26 **ARC 5417B** 507
- Filed, Reimbursement rates for providers,
amendments to chs 78, 79, 93, 150, 156, 185
ARC 5438B 522
- Filed, IowaCare, ch 92 preamble, 92.1 to 92.15
ARC 5436B 522
- Filed, Foster or adoptive parent applicants—
waiver of preservice training program
requirements, 113.8(1), 200.4(4) **ARC 5434B** ... 523
- Filed Emergency, State payment program
appropriation—allocation to counties, 153.51,
153.53, 153.55, 153.56(1), 153.57 **ARC 5419B** .. 510
- Filed, Adoption legal expenses—increase in
maximum subsidy, 201.6(1) **ARC 5435B** 524

Continued on page 475

PREFACE

The Iowa Administrative Bulletin is published biweekly in pamphlet form pursuant to Iowa Code chapters 2B and 17A and contains Notices of Intended Action and rules adopted by state agencies.

It also contains Proclamations and Executive Orders of the Governor which are general and permanent in nature; Regulatory Analyses; effective date delays and objections filed by the Administrative Rules Review Committee; Agenda for monthly Administrative Rules Review Committee meetings; and other materials deemed fitting and proper by the Administrative Rules Review Committee.

The Bulletin may also contain public funds interest rates [12C.6]; workers' compensation rate filings [515A.6(7)]; usury rates [535.2(3)“a”]; agricultural credit corporation maximum loan rates [535.12]; and regional banking—notice of application and hearing [524.1905(2)].

PLEASE NOTE: *Italics* indicate new material added to existing rules; ~~strike-through letters~~ indicate deleted material.

Subscriptions and Distribution	Telephone:	(515)281-6766
	Fax:	(515)281-6625
KATHLEEN K. WEST, Administrative Code Editor	Telephone:	(515)281-3355
STEPHANIE A. HOFF, Deputy Editor		(515)281-8157
	Fax:	(515)281-5534

SUBSCRIPTION INFORMATION

Iowa Administrative Bulletin

The Iowa Administrative Bulletin is sold as a separate publication and may be purchased by subscription or single copy. All subscriptions will expire on June 30 of each year. Subscriptions must be paid in advance and are prorated quarterly.

July 1, 2006, to June 30, 2007	\$328
October 1, 2006, to June 30, 2007	\$246
January 1, 2007, to June 30, 2007	\$164
April 1, 2007, to June 30, 2007	\$ 82

Single copies may be purchased for \$23.

Iowa Administrative Code

The Iowa Administrative Code and Supplements are sold in complete sets by subscription. Supplement (replacement pages) subscriptions must be for the complete year and will expire on June 30 of each year.

Prices for the Iowa Administrative Code and its Supplements are as follows:

Iowa Administrative Code – \$1,520

(Price includes complete set of rules and index, plus a one-year subscription to the Code Supplement and the Iowa Administrative Bulletin. Additional or replacement binders may be purchased for \$20.)

Iowa Administrative Code Supplement – \$510

(Subscription expires June 30, 2006)

All checks should be made payable to the Treasurer, State of Iowa. Send all inquiries and subscription orders to:

**Attn: Nicole Navara
Legislative Services Agency
Miller Building
Des Moines, IA 50319
Telephone: (515)281-6766**

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

- Filed Emergency After Notice, Subsidized guardianship program, amendments to ch 204
ARC 5420B 512

INSPECTIONS AND APPEALS DEPARTMENT[481]

- Notice, Licensure—long-term acute care hospitals, 51.1, 51.2, 51.4, 51.5(3) **ARC 5431B** 493
- Notice, Nursing facilities, amendments to chs 58, 61 **ARC 5429B** 495
- Notice, Admission procedures for certain long-term care facilities, 58.12(1)“1,” 64.6, 65.10
ARC 5430B 503
- Filed, Death records of residents of care facilities, amendments to chs 57, 58, 62 to 65
ARC 5432B 524
- Filed, Intermediate care facilities for the mentally retarded—holding open a bed during a resident’s temporary absence from facility, 64.17(7)“b”
ARC 5433B 525

INSURANCE DIVISION[191]

COMMERCE DEPARTMENT[181]“umbrella”

- Filed, Individual accident and health—minimum standards, 36.5(6), 36.6 **ARC 5444B** 525

INTERIOR DESIGN EXAMINING BOARD[193G]

Professional Licensing and Regulation Bureau[193]

COMMERCE DEPARTMENT[181]“umbrella”

- Filed, Description of organization; registration, chs 1, 2 **ARC 5455B** 526

IOWA FINANCE AUTHORITY[265]

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]“umbrella”

- Filed, Closing protection letters, 9.22
ARC 5452B 526
- Filed, Home and community-based services revolving loan program, 21.1, 21.3, 21.5(1)
ARC 5456B 527

PAROLE BOARD[205]

CORRECTIONS DEPARTMENT[201]“umbrella”

- Filed, Change in agency address, amendments to chs 1 to 5 **ARC 5454B** 528

PUBLIC HEALTH DEPARTMENT[641]

- Filed, Shared newborn hearing screening information—department agreement with states bordering Iowa, parental refusal form, 3.10(3), 3.12 **ARC 5421B** 528
- Filed, Radon testing, analysis, mitigation, amendments to chs 43, 44 **ARC 5422B** 529
- Filed Without Notice, Corrections of references to the Code of Iowa, 71.1 to 71.3 **ARC 5457B** ... 529

PUBLIC HEARINGS

- Summarized list 478

PUBLIC SAFETY DEPARTMENT[661]

- Notice, Certification of automatic fire extinguishing system contractors, 275.3(4), 275.5(1), 275.6
ARC 5425B 504
- Filed, Sprinklers in elevators, 5.52 **ARC 5427B** ... 530
- Filed Emergency, Certification of automatic fire extinguishing system contractors, 275.3(4), 275.5(1), 275.6 **ARC 5426B** 513
- Filed, Peace officers’ retirement, accident, and disability system, 400.2, 400.10, ch 401, 402.300 to 402.306 **ARC 5446B** 530

RECORDS COMMISSION[671]

- Notice, Clarification of definitions, 1.2
ARC 5447B 505

TRANSPORTATION DEPARTMENT[761]

- Filed, Consent for the sale of goods and services, rescind ch 26 **ARC 5428B** 531

USURY

- Notice 506

UTILITIES DIVISION[199]

COMMERCE DEPARTMENT[181]“umbrella”

- Notice, Rules prohibiting unauthorized changes in telecommunications service, 22.23(2)“a”(5)
ARC 5423B 506

Schedule for Rule Making 2006

NOTICE SUBMISSION DEADLINE	NOTICE PUB. DATE	HEARING OR COMMENTS 20 DAYS	FIRST POSSIBLE ADOPTION DATE 35 DAYS	ADOPTED FILING DEADLINE	ADOPTED PUB. DATE	FIRST POSSIBLE EFFECTIVE DATE	POSSIBLE EXPIRATION OF NOTICE 180 DAYS
Dec. 30 '05	Jan. 18 '06	Feb. 7 '06	Feb. 22 '06	Feb. 24 '06	Mar. 15 '06	Apr. 19 '06	July 17 '06
Jan. 13	Feb. 1	Feb. 21	Mar. 8	Mar. 10	Mar. 29	May 3	July 31
Jan. 27	Feb. 15	Mar. 7	Mar. 22	Mar. 24	Apr. 12	May 17	Aug. 14
Feb. 10	Mar. 1	Mar. 21	Apr. 5	Apr. 7	Apr. 26	May 31	Aug. 28
Feb. 24	Mar. 15	Apr. 4	Apr. 19	Apr. 21	May 10	June 14	Sept. 11
Mar. 10	Mar. 29	Apr. 18	May 3	May 5	May 24	June 28	Sept. 25
Mar. 24	Apr. 12	May 2	May 17	***May 17***	June 7	July 12	Oct. 9
Apr. 7	Apr. 26	May 16	May 31	June 2	June 21	July 26	Oct. 23
Apr. 21	May 10	May 30	June 14	June 16	July 5	Aug. 9	Nov. 6
May 5	May 24	June 13	June 28	***June 28***	July 19	Aug. 23	Nov. 20
May 17	June 7	June 27	July 12	July 14	Aug. 2	Sept. 6	Dec. 4
June 2	June 21	July 11	July 26	July 28	Aug. 16	Sept. 20	Dec. 18
June 16	July 5	July 25	Aug. 9	Aug. 11	Aug. 30	Oct. 4	Jan. 1 '07
June 28	July 19	Aug. 8	Aug. 23	***Aug. 23***	Sept. 13	Oct. 18	Jan. 15 '07
July 14	Aug. 2	Aug. 22	Sept. 6	Sept. 8	Sept. 27	Nov. 1	Jan. 29 '07
July 28	Aug. 16	Sept. 5	Sept. 20	Sept. 22	Oct. 11	Nov. 15	Feb. 12 '07
Aug. 11	Aug. 30	Sept. 19	Oct. 4	Oct. 6	Oct. 25	Nov. 29	Feb. 26 '07
Aug. 23	Sept. 13	Oct. 3	Oct. 18	Oct. 20	Nov. 8	Dec. 13	Mar. 12 '07
Sept. 8	Sept. 27	Oct. 17	Nov. 1	Nov. 3	Nov. 22	Dec. 27	Mar. 26 '07
Sept. 22	Oct. 11	Oct. 31	Nov. 15	***Nov. 15***	Dec. 6	Jan. 10 '07	Apr. 9 '07
Oct. 6	Oct. 25	Nov. 14	Nov. 29	Dec. 1	Dec. 20	Jan. 24 '07	Apr. 23 '07
Oct. 20	Nov. 8	Nov. 28	Dec. 13	***Dec. 13***	Jan. 3 '07	Feb. 7 '07	May 7 '07
Nov. 3	Nov. 22	Dec. 12	Dec. 27	***Dec. 27***	Jan. 17 '07	Feb. 21 '07	May 21 '07
Nov. 15	Dec. 6	Dec. 26	Jan. 10 '07	Jan. 12 '07	Jan. 31 '07	Mar. 7 '07	June 4 '07
Dec. 1	Dec. 20	Jan. 9 '07	Jan. 24 '07	Jan. 26 '07	Feb. 14 '07	Mar. 21 '07	June 18 '07
Dec. 13	Jan. 3 '07	Jan. 23 '07	Feb. 7 '07	Feb. 9 '07	Feb. 28 '07	Apr. 4 '07	July 2 '07
Dec. 27	Jan. 17 '07	Feb. 6 '07	Feb. 21 '07	Feb. 23 '07	Mar. 14 '07	Apr. 18 '07	July 16 '07

PRINTING SCHEDULE FOR IAB

ISSUE NUMBER

10

11

12

SUBMISSION DEADLINE

Friday, October 20, 2006

Friday, November 3, 2006

Wednesday, November 15, 2006

ISSUE DATE

November 8, 2006

November 22, 2006

December 6, 2006

PLEASE NOTE:

Rules will not be accepted after **12 o'clock noon** on the Friday filing deadline days unless prior approval has been received from the Administrative Rules Coordinator's office.

If the filing deadline falls on a legal holiday, submissions made on the following Monday will be accepted.

Note change of filing deadline

PUBLICATION PROCEDURES

TO: Administrative Rules Coordinators and Text Processors of State Agencies
FROM: Kathleen K. West, Iowa Administrative Code Editor
SUBJECT: Publication of Rules in Iowa Administrative Bulletin

The Administrative Code Division uses QuickSilver XML Publisher, version 2.0.0, to publish the Iowa Administrative Bulletin and can import documents directly from most other word processing systems, including Microsoft Word, Word for Windows (Word 7 or earlier), and WordPerfect.

1. To facilitate the publication of rule-making documents, we request that you send your document(s) as an attachment(s) to an E-mail message, addressed to both of the following:

bruce.carr@legis.state.ia.us and
kathleen.west@legis.state.ia.us

2. Alternatively, you may send a PC-compatible diskette of the rule making. Please indicate on each diskette the following information: agency name, file name, format used for exporting, and chapter(s) amended. Diskettes may be delivered to the Administrative Code Division, Third Floor West, Ola Babcock Miller Building, or included with the documents submitted to the Governor's Administrative Rules Coordinator.

Please note that changes made prior to publication of the rule-making documents are reflected on the hard copy returned to agencies, but not on the diskettes; diskettes are returned unchanged.

Your cooperation helps us print the Bulletin more quickly and cost-effectively than was previously possible and is greatly appreciated.

IOWA ADMINISTRATIVE RULES and IOWA COURT RULES on CD-ROM

2006 IOWA LAW CD-ROM

Containing: **Iowa Administrative Code** (updated through December 2005)
Iowa Administrative Bulletins (July 2005 through December 2005)
Iowa Court Rules (updated through December 2005)

For free brochures and order forms contact:

Legislative Services Agency
Attn: Nicole Navara
Miller Building
Des Moines, Iowa 50319
Telephone: (515)281-6766 Fax: (515)281-6625
nicole.navara@legis.state.ia.us

AGENCY	HEARING LOCATION	DATE AND TIME OF HEARING
DENTAL EXAMINERS BOARD[650]		
Continuing education, 25.3(7) IAB 9/27/06 ARC 5405B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	October 17, 2006 2 p.m.
Deep sedation/general anesthesia and conscious sedation, 29.3 to 29.5, 29.10(2) IAB 9/27/06 ARC 5406B	Conference Room, Suite D 400 SW Eighth St. Des Moines, Iowa	October 17, 2006 2 p.m.
EDUCATION DEPARTMENT[281]		
Open enrollment, amendments to ch 17 IAB 10/11/06 ARC 5415B	Conference Room 2 Southwest Grimes State Office Bldg. Des Moines, Iowa	November 1, 2006 2:30 to 4 p.m.
ENVIRONMENTAL PROTECTION COMMISSION[567]		
Recycling property eligible for property tax exemption, 11.6 IAB 10/11/06 ARC 5450B	Fifth Floor East Conference Room Wallace State Office Bldg. Des Moines, Iowa	November 8, 2006 1 p.m.
Water supply program design and operation—fees, 43.3(3)“c” IAB 10/11/06 ARC 5449B	IDNR Water Supply Office 401 SW 7th St., Suite I Des Moines, Iowa	November 1, 2006 10 a.m.
Discarded appliance demanufacturing, ch 118 IAB 9/27/06 ARC 5387B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 17, 2006 9 a.m.
Mercury-added switch recovery from end-of-life vehicles, ch 215 IAB 9/27/06 ARC 5386B	Fourth Floor West Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 17, 2006 8:30 a.m.
HUMAN SERVICES DEPARTMENT[441]		
State payment program, amendments to chs 88, 153 IAB 10/11/06 ARC 5451B (See also ARC 5282B , IAB 8/2/06)	Conf. Rm. 104, City View Plaza 1200 University Ave. Des Moines, Iowa	November 1, 2006 8:30 a.m.
	ICN Room, Fourth Floor Trospen-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	November 1, 2006 9 to 10 a.m.
	ICN Rm., Pottawattamie Co. DHS 417 E. Kanesville Blvd. Council Bluffs, Iowa	November 1, 2006 10 a.m.
	Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	November 1, 2006 10 a.m. to 12 noon

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

	Second Floor Conference Room Human Services Center 126 S. Kellogg Ave. Ames, Iowa	November 1, 2006 11 a.m. to 12 noon
	Conf. Rm. 3, Wapello Co. DHS 120 E. Main St. Ottumwa, Iowa	November 1, 2006 1 to 2 p.m.
	3rd Floor Conf. Rm., Nesler Centre 799 Main St. Dubuque, Iowa	November 2, 2006 9:30 a.m.
	Main Conf. Rm., Johnson Co. DHS 911 N. Governor St. Iowa City, Iowa	November 2, 2006 1 to 2 p.m.
	Board of Supervisors Rm., 1st Floor Scott Co. Administrative Center 428 Western Ave. Davenport, Iowa	November 3, 2006 10 a.m.
State payment program appropriation, amendments to ch 153 IAB 10/11/06 ARC 5418B (See also ARC 5419B herein)	Conf. Rm. 104, City View Plaza 1200 University Ave. Des Moines, Iowa	November 1, 2006 8:30 a.m.
	ICN Room, Fourth Floor Trosper-Hoyt Bldg. 822 Douglas St. Sioux City, Iowa	November 1, 2006 9 to 10 a.m.
	ICN Rm., Pottawattamie Co. DHS 417 E. Kanesville Blvd. Council Bluffs, Iowa	November 1, 2006 10 a.m.
	Rm. 220, Pinecrest Office Bldg. 1407 Independence Ave. Waterloo, Iowa	November 1, 2006 10 a.m. to 12 noon
	Second Floor Conference Room Human Services Center 126 S. Kellogg Ave. Ames, Iowa	November 1, 2006 11 a.m. to 12 noon
	Conf. Rm. 3, Wapello Co. DHS 120 E. Main St. Ottumwa, Iowa	November 1, 2006 1 to 2 p.m.
	3rd Floor Conf. Rm., Nesler Centre 799 Main St. Dubuque, Iowa	November 2, 2006 9:30 a.m.

HUMAN SERVICES DEPARTMENT[441] (Cont'd)

Main Conf. Rm., Johnson Co. DHS 911 N. Governor St. Iowa City, Iowa	November 2, 2006 1 to 2 p.m.
Board of Supervisors Rm., 1st Floor Scott Co. Administrative Center 428 Western Ave. Davenport, Iowa	November 3, 2006 10 a.m.

INSPECTIONS AND APPEALS DEPARTMENT[481]

Hospital licensure, amendments to ch 51 IAB 10/11/06 ARC 5431B	Conference Room 319 Lucas State Office Bldg. Des Moines, Iowa	November 1, 2006 10 a.m.
Nursing facilities, amendments to chs 58, 61 IAB 10/11/06 ARC 5429B	Conference Room 319 Lucas State Office Bldg. Des Moines, Iowa	November 1, 2006 2 p.m.

INSURANCE DIVISION[191]

Unfair trade practices, 15.8, 15.12 IAB 9/27/06 ARC 5409B	330 Maple St. Des Moines, Iowa	October 18, 2006 10 a.m.
Surplus lines requirements, amendments to chs 20, 21 IAB 9/27/06 ARC 5408B	330 Maple St. Des Moines, Iowa	October 18, 2006 1 p.m.
Viatical and life settlements, 48.3, 48.8(3), 48.9(4) IAB 9/27/06 ARC 5407B	330 Maple St. Des Moines, Iowa	October 17, 2006 9 a.m.

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Benefits, amendments to chs 4, 6, 11, 12, 14, 15 IAB 9/27/06 ARC 5401B	7401 Register Dr. Des Moines, Iowa	October 17, 2006 9 a.m.
--	---------------------------------------	----------------------------

LABOR SERVICES DIVISION[875]

Construction contractor registration, 150.3, 150.7 IAB 9/27/06 ARC 5391B	Stanley Room 1000 E. Grand Ave. Des Moines, Iowa	November 1, 2006 9 a.m. (If requested)
---	--	--

PUBLIC SAFETY DEPARTMENT[661]

Weapons permits, rescind 4.1 to 4.12; adopt ch 91 IAB 9/27/06 ARC 5396B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 20, 2006 10 a.m.
Disposition of seized and forfeited weapons and ammunition, rescind 4.51 to 4.59; adopt ch 95 IAB 9/27/06 ARC 5395B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 20, 2006 10:30 a.m.

PUBLIC SAFETY DEPARTMENT[661] (Cont'd)

Fire safety requirements, amend ch 5; adopt chs 201, 202, 210 IAB 9/13/06 ARC 5375B (ICN Network)	Third Floor Conference Room Wallace State Office Bldg. 502 E. Ninth St. Des Moines, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Room 122 Emmetsburg High School Second and King St. Emmetsburg, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Room 550, Fifth Floor Department of Human Services 411 Third St. SE Cedar Rapids, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Mount Pleasant High School 2104 S. Grand Mount Pleasant, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Turner Room Green Valley AEA 14 1405 N. Lincoln Creston, Iowa	October 12, 2006 10:30 a.m. to 12 noon
	Room 1, Altoona Public Library 700 8th Ave. SW Altoona, Iowa	October 17, 2006 6:30 to 8 p.m.
	Room 818 Iowa Lakes Community College 1900 N. Grand Ave. Spencer, Iowa	October 17, 2006 6:30 to 8 p.m.
	Room 106A George Washington High School 2205 Forest Drive SE Cedar Rapids, Iowa	October 17, 2006 6:30 to 8 p.m.
	New London Jr-Sr High School 101 Jack Wilson Dr. New London, Iowa	October 17, 2006 6:30 to 8 p.m.
	Room 211 Orient-Macksburg Sr. High School Orient, Iowa	October 17, 2006 6:30 to 8 p.m.
Criminal justice information, 8.201 to 8.207; ch 81 IAB 9/13/06 ARC 5378B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 12, 2006 10 a.m.
Missing person information clearinghouse, rescind ch 19; adopt ch 89 IAB 9/27/06 ARC 5393B	Third Floor Conference Room Wallace State Office Bldg. Des Moines, Iowa	October 20, 2006 9:30 a.m.
Certification of automatic fire extinguishing system contractors, 275.3(4), 275.5(1), 275.6 IAB 10/11/06 ARC 5425B (See also ARC 5426B herein)	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	November 2, 2006 10 a.m.

PUBLIC SAFETY DEPARTMENT[661] (Cont'd)

State building code, amendments to chs 300, 301 IAB 9/27/06 ARC 5404B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	October 24, 2006 10 a.m.
State historic building code, 350.1 IAB 9/27/06 ARC 5402B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	October 26, 2006 10:30 a.m.
Manufactured or mobile home retailers, manufacturers, and distributors, ch 372 IAB 9/27/06 ARC 5403B	Conference Room, Suite N 401 SW 7th St. Des Moines, Iowa	October 26, 2006 10 a.m.

RECORDS COMMISSION[671]

Government records—organization and responsibilities, 1.2 IAB 10/11/06 ARC 5447B	Tone Board Room, 3rd Floor West Historical Building 600 East Locust St. Des Moines, Iowa	October 31, 2006 10 a.m.
---	---	-----------------------------

UTILITIES DIVISION[199]

Wind and renewable energy tax credits, 15.18 to 15.21 IAB 9/27/06 ARC 5400B	Hearing Room 350 Maple St. Des Moines, Iowa	November 7, 2006 10 a.m.
Gas and electric line extensions, 19.3(10), 20.3(13) IAB 9/13/06 ARC 5382B	Hearing Room 350 Maple St. Des Moines, Iowa	November 14, 2006 10 a.m.
Rules prohibiting unauthorized changes to telecommunications service, 22.23(2)“a”(5) IAB 10/11/06 ARC 5423B	Hearing Room 350 Maple St. Des Moines, Iowa	November 21, 2006 10 a.m.

Due to reorganization of state government by 1986 Iowa Acts, chapter 1245, it was necessary to revise the agency identification numbering system, i.e., the bracketed number following the agency name.

“Umbrella” agencies and elected officials are set out below at the left-hand margin in CAPITAL letters.

Divisions (boards, commissions, etc.) are indented and set out in lowercase type under their statutory “umbrellas.”

Other autonomous agencies which were not included in the original reorganization legislation as “umbrella” agencies are included alphabetically in small capitals at the left-hand margin, e.g., BEEF INDUSTRY COUNCIL, IOWA[101].

The following list will be updated as changes occur:

ADMINISTRATIVE SERVICES DEPARTMENT[11]
AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]
 Agricultural Development Authority[25]
 Soil Conservation Division[27]
ATTORNEY GENERAL[61]
AUDITOR OF STATE[81]
BEEF INDUSTRY COUNCIL, IOWA[101]
BLIND, DEPARTMENT FOR THE[111]
CAPITAL INVESTMENT BOARD, IOWA[123]
CITIZENS’ AIDE[141]
CIVIL RIGHTS COMMISSION[161]
COMMERCE DEPARTMENT[181]
 Alcoholic Beverages Division[185]
 Banking Division[187]
 Credit Union Division[189]
 Insurance Division[191]
 Professional Licensing and Regulation Bureau[193]
 Accountancy Examining Board[193A]
 Architectural Examining Board[193B]
 Engineering and Land Surveying Examining Board[193C]
 Landscape Architectural Examining Board[193D]
 Real Estate Commission[193E]
 Real Estate Appraiser Examining Board[193F]
 Interior Design Examining Board[193G]
 Savings and Loan Division[197]
 Utilities Division[199]
CORRECTIONS DEPARTMENT[201]
 Parole Board[205]
CULTURAL AFFAIRS DEPARTMENT[221]
 Arts Division[222]
 Historical Division[223]
ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]
 City Development Board[263]
 Grow Iowa Values Board[264]
 Iowa Finance Authority[265]
EDUCATION DEPARTMENT[281]
 Educational Examiners Board[282]
 College Student Aid Commission[283]
 Higher Education Loan Authority[284]
 Iowa Advance Funding Authority[285]
 Libraries and Information Services Division[286]
 Public Broadcasting Division[288]
 School Budget Review Committee[289]
EGG COUNCIL, IOWA[301]
ELDER AFFAIRS DEPARTMENT[321]
EMPOWERMENT BOARD, IOWA[349]
ETHICS AND CAMPAIGN DISCLOSURE BOARD, IOWA[351]
EXECUTIVE COUNCIL[361]
FAIR BOARD[371]
HUMAN RIGHTS DEPARTMENT[421]
 Community Action Agencies Division[427]
 Criminal and Juvenile Justice Planning Division[428]
 Deaf Services Division[429]
 Persons With Disabilities Division[431]
 Latino Affairs Division[433]
 Status of African-Americans, Division on the[434]
 Status of Women Division[435]
HUMAN SERVICES DEPARTMENT[441]

INSPECTIONS AND APPEALS DEPARTMENT[481]
 Employment Appeal Board[486]
 Foster Care Review Board[489]
 Racing and Gaming Commission[491]
 State Public Defender[493]
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]
LAW ENFORCEMENT ACADEMY[501]
LIVESTOCK HEALTH ADVISORY COUNCIL[521]
LOTTERY AUTHORITY, IOWA[531]
MANAGEMENT DEPARTMENT[541]
 Appeal Board, State[543]
 City Finance Committee[545]
 County Finance Committee[547]
NATURAL RESOURCES DEPARTMENT[561]
 Energy and Geological Resources Division[565]
 Environmental Protection Commission[567]
 Natural Resource Commission[571]
 Preserves, State Advisory Board for[575]
PETROLEUM UNDERGROUND STORAGE TANK FUND
 BOARD, IOWA COMPREHENSIVE[591]
PREVENTION OF DISABILITIES POLICY COUNCIL[597]
PUBLIC DEFENSE DEPARTMENT[601]
 Homeland Security and Emergency Management Division[605]
 Military Division[611]
PUBLIC EMPLOYMENT RELATIONS BOARD[621]
PUBLIC HEALTH DEPARTMENT[641]
 Professional Licensure Division[645]
 Dental Examiners Board[650]
 Medical Examiners Board[653]
 Nursing Board[655]
 Pharmacy Examiners Board[657]
PUBLIC SAFETY DEPARTMENT[661]
RECORDS COMMISSION[671]
REGENTS BOARD[681]
 Archaeologist[685]
REVENUE DEPARTMENT[701]
SECRETARY OF STATE[721]
SEED CAPITAL CORPORATION, IOWA[727]
SHEEP AND WOOL PROMOTION BOARD, IOWA[741]
TELECOMMUNICATIONS AND TECHNOLOGY COMMISSION, IOWA[751]
TRANSPORTATION DEPARTMENT[761]
 Railway Finance Authority[765]
TREASURER OF STATE[781]
TURKEY MARKETING COUNCIL, IOWA[787]
UNIFORM STATE LAWS COMMISSION[791]
VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]
VETERINARY MEDICINE BOARD[811]
VOLUNTEER SERVICE, IOWA COMMISSION ON[817]
VOTER REGISTRATION COMMISSION[821]
WORKFORCE DEVELOPMENT DEPARTMENT[871]
 Labor Services Division[875]
 Workers' Compensation Division[876]
 Workforce Development Board and
 Workforce Development Center Administration Division[877]

ARC 5445B

ARCHITECTURAL EXAMINING
BOARD[193B]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544A.29, the Architectural Examining Board hereby gives Notice of Intended Action to amend Chapter 2, “Registration,” Iowa Administrative Code.

The amendments to Chapter 2 provide a registrant the opportunity to reinstate to “inactive” status if the registrant is no longer providing architectural services in the state and rescind the requirement that an architectural firm renew an Authorization to Practice Architecture as a Business Entity once the initial application is approved. However, the Board will continue to require that firms provide notification to the Board of any change in business name, address, or ownership.

These amendments are subject to waiver or variance pursuant to 193—Chapter 5.

Consideration will be given to all written suggestions or comments on the proposed amendments received on or before October 31, 2006. Comments should be addressed to Glenda Loving, Architectural Examining Board, 1920 S.E. Hulsizer, Ankeny, Iowa 50021, or faxed to (515)281-7411. E-mail may be sent to glenda.loving@iowa.gov.

These amendments are intended to implement Iowa Code chapters 17A and 544A.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule 193B—2.6(544A,17A), introductory paragraph, as follows:

193B—2.6(544A,17A) Reinstatement of lapsed certificate of registration to active status. An individual may reinstate a lapsed certificate of registration *to active status* as follows:

ITEM 2. Amend subrule **2.6(1)**, paragraph “a,” subparagraph (4), as follows:

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year *or portion of a year* of expired registration in compliance with requirements in 193B—Chapter 3 in addition to the 24 hours (16 hours in public protection subjects) which should have been reported on the June 30 renewal date on which the applicant failed to renew. The continuing education hours used for reinstatement may not be used again at the next renewal.

ITEM 3. Amend subrule **2.6(2)**, paragraph “a,” subparagraph (4), as follows:

(4) Submit documented evidence of completion of 12 contact hours (8 hours in public protection subjects) of continuing education requirements for each year *or portion of a*

year of expired registration in compliance with requirements in 193B—Chapter 3 up to a maximum of 48 contact hours (32 hours in public protection subjects). The continuing education hours used for reinstatement may not be used again at the next renewal.

ITEM 4. Renumber rule **193B—2.7(544A)** as **193B—2.8(544A)** and adopt **new** rule 193B—2.7(544A,17A) as follows:

193B—2.7(544A,17A) Reinstatement of lapsed certificate of registration to inactive status. An individual may reinstate a lapsed certificate of registration to inactive status as follows:

1. Pay the reinstatement fee of \$25 per month of expired registration up to a maximum of \$750;
2. Pay the current renewal fee;
3. Provide a written statement in which the applicant affirms that the applicant has not engaged in any of the practices in Iowa that are listed in Iowa Code section 544A.16 during the period of lapsed registration.

ITEM 5. Renumber rules **193B—2.8(544A)** and **193B—2.9(544A,17A)** as **193B—2.10(544A)** and **193B—2.11(544A,17A)** and adopt **new** rule 193B—2.9(544A,17A) as follows:

193B—2.9(544A,17A) Finding of probable cause for unlicensed practice. The board may find probable cause to file charges for unlicensed practice if the individual continues to offer services defined as the practice of architecture outlined in Iowa Code section 544A.16 while using the title “architect,” “architectural designer,” or similar designation during the period of lapsed registration.

ITEM 6. Amend renumbered rule 193B—2.10(544A) as follows:

Amend renumbered subrule 2.10(2) as follows:

2.10(2) A domestic professional corporation or professional limited liability company shall file with the board an application for Authorization to Practice Architecture as a Business Entity along with a copy of its annual report to the secretary of state, ~~but shall not be required to pay any fees to the board.~~

Rescind renumbered subrules **2.10(4)**, **2.10(5)** and **2.10(6)** and adopt **new** subrules 2.10(4) and 2.10(5) as follows:

2.10(4) The business entity shall send notice to the board within 90 days of any change in name, address, registered agent if a corporation, officers, directors, partners, beneficial owners, or other principals of the business entity or any change in the name or address of each registered architect in responsible charge of the practice of architecture on behalf of the business entity in the state of Iowa.

2.10(5) A business entity which, after receiving authorization to practice architecture, is not in compliance with Iowa Code section 544A.21 or these rules as a result of a change in ownership or personnel shall take corrective action to bring the business entity back into compliance as soon as possible or apply to modify or amend the authorization. The board may grant a reasonable period of time, up to 90 days unless an extension is requested, for an entity to take such corrective action. Failure to comply within a period of time deemed reasonable by the board shall result in the suspension or revocation of the authorization to practice architecture as a business entity.

Renumber previously renumbered subrule **2.10(7)** as **2.10(6)**.

ARCHITECTURAL EXAMINING BOARD[193B](cont'd)

ITEM 7. Amend renumbered rule 193B—2.11(544A, 17A) as follows:

193B—2.11(544A,17A) Fee schedule. Under the authority provided in Iowa Code chapter 544A, the following fees are hereby adopted:

Examination fees:

Fees for examination subjects shall be paid directly to the testing service selected by NCARB	
Initial registration fee	\$ 50
(plus \$5 per month until renewal)	
Reciprocal application and registration fee	\$200
Biennial renewal of Authorization to Practice as a Business Entity	\$100
Biennial renewal fee	\$200
Biennial renewal fee (inactive)	\$100
Biennial renewal fee (retired)	\$ 50
Reinstatement of lapsed individual registration (per month)	\$ 25
Duplicate wall certificate fee	\$ 50
Authorization to Practice as a Business Entity (initial application)	\$ 50
Reinstatement of a lapsed Authorization to Practice as a Business Entity	\$100

ARC 5415B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to amend Chapter 17, “Open Enrollment,” Iowa Administrative Code.

The primary change adds detail to an administrative appeal newly available to a resident district for protesting an approval of a late-filed open enrollment request by a receiving district. Another major change clarifies that the exception of “continuous enrollment” is not available to the parent/guardian of a child entering kindergarten for the first time. Other changes are minor “clean-up” changes (deleting superfluous definitions, changing deadlines in accordance with statutory changes, eliminating reference to Phase III dollars, and eliminating the requirement to send copies of requests to the Department because the Department lacks statutory authorization).

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendments on or before November 1, 2006, at 4:30 p.m. Comments on the proposed amendments should be directed to Carol Greta, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

A public hearing will be held on November 1, 2006, from 2:30 to 4 p.m. in Conference Room 2 Southwest, Grimes State Office Building, East 14th Street and Grand Avenue, Des Moines, Iowa, at which time persons may present their

views either orally or in writing. Any persons who intend to attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact and advise the Department of Education of their specific needs by calling (515)281-5295.

These amendments are intended to implement Iowa Code section 282.18 as amended by 2006 Iowa Acts, Senate File 2272, sections 41 to 43.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **281—17.2(282)** by adding the following **new** definition in alphabetical order:

“Director” means the director of the department of education or the director’s designee.

ITEM 2. Amend rule **281—17.2(282)** by rescinding the definitions of “economic eligibility requirements,” “good cause,” and “timely filed application.”

ITEM 3. Amend subrule 17.3(2), introductory paragraph and first and second unnumbered paragraphs, as follows:

17.3(2) School district responsibilities. The board of the resident district shall take no action on an open enrollment request *except for a request made under rule 17.5(282) or 17.14(282)*. The board of the receiving district shall act on an open enrollment request no later than June 1 of the school year preceding the school year for which the request is made.

The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within five days of board action ~~and shall file a copy of the application form, indicating the final action on the request, with the department of education.~~

As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, ~~timely filed~~ applications *filed on or before March 1*. The board of directors of a receiving school district may adopt a policy granting the superintendent of the school district authority to approve open enrollment applications submitted after the March 1 deadline, but the board of the receiving district shall take action to approve the request if good cause exists. The board shall have the discretion to determine the scope of the authorization. The authorization may be for regular applications filed on or before March 1, good cause applications, kindergarten applications and continuation applications filed on or before September 1, or any combination that the board determines. The same timelines for approval, forwarding, and notification shall apply.

ITEM 4. Amend rule 281—17.4(282), introductory paragraph, as follows:

281—17.4(282) Filing after the March 1 deadline—good cause. A parent/guardian may apply for open enrollment after the filing deadline of March 1 of the school year preceding the school year for which open enrollment is requested and before the ~~third Friday in September~~ *date specified in Iowa Code section 257.6, subsection 1*, of that calendar year if good cause exists for the failure to meet the deadline. Good cause is a change in the status of the pupil’s residence or a change in the status of the pupil’s resident district taking place after March 1, or the closing or loss of accreditation of a nonpublic school of attendance after March 1 resulting in the desire of the parent/guardian to obtain open enrollment for the follow-

EDUCATION DEPARTMENT[281](cont'd)

ing school year. If good cause can be established, the parent/guardian shall be permitted to apply for open enrollment in the same manner as if the deadline had been met pursuant to rule 17.3(282).

ITEM 5. Amend subrule **17.4(5)**, first unnumbered paragraph, as follows:

The receiving district superintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within five days of board action ~~and shall file a copy of the application form indicating the final action on the request with the department of education.~~

ITEM 6. Rescind subrule 17.4(6) and adopt the following **new** subrule in lieu thereof:

17.4(6) If the resident district believes that the board of the receiving district approved a late-filed open enrollment request that does not meet the definition of “good cause” under Iowa Code section 282.18(4)“b,” the resident district may appeal to the director.

a. Upon affirmative vote of a majority of its board to do so, the resident district shall file a written appeal to the director within 15 days of receipt by the resident district of notification by the board of the receiving district of the approval by the receiving district of a late-filed open enrollment request. The written appeal shall state the name and grade level of the affected student, the name of the receiving district, the date of approval by the board of the receiving district, the date the resident district was notified of the approval, and a brief statement explaining why the resident district board believes there is no good cause for the request to have been filed and approved after March 1. The appeal shall be signed by the president of the board of the resident district and shall have attached to it a copy of the disputed open enrollment request and the minutes of the board meeting at which the resident district board voted to appeal. An appeal is timely filed if it is postmarked or delivered personally or via facsimile transmission to the director within the 15-day time period.

b. The director shall, upon receipt of an appeal, first attempt to mediate the dispute. If mediation is unsuccessful, the director shall schedule a telephonic hearing for the purpose of hearing testimony from both boards.

c. If a hearing is necessary, the boards may stipulate to any or all facts to be considered by the director. At the sole discretion of the director, an in-person hearing may be scheduled. The director shall issue a written decision within ten days of the hearing, upholding or reversing the decision of the board of the receiving district.

d. Within five days of the issuance of the decision of the director, the aggrieved board may appeal the decision to the state board of education under the procedures in Iowa Code chapter 290.

ITEM 7. Amend subrule 17.5(1) as follows:

17.5(1) The board of the resident district shall act on the request within 30 days of its receipt. If the request is denied, the parent/guardian shall be notified by the district superintendent within 3 days following board action, ~~and a copy of the application form, indicating the action taken, shall be filed with the department of education.~~ If the request is approved, the district superintendent shall forward the approved application form to the receiving district within 5 days following board action and shall notify the parent/guardian within 3 days of this action. The board of the receiving district shall act to approve or deny an open enrollment request within 30 days following receipt of the notice of approval from the resident district. The receiving district su-

perintendent shall provide notification of either approval or denial of the request to the parent/guardian and to the resident district within 15 days of board action ~~and shall file with the department of education a copy of the application form indicating the final action on the request.~~

ITEM 8. Amend rule **281—17.7(282)**, first unnumbered paragraph, as follows:

As an alternative procedure, the receiving board may by policy authorize the superintendent to approve, but not deny, ~~timely filed applications filed on or before September 1~~ under this rule. The timelines established in rule 17.4(282) shall apply to applications for a kindergarten pupil.

ITEM 9. Amend subrule **17.8(4)** by striking the second unnumbered paragraph thereof.

ITEM 10. Amend subrule 17.8(6) as follows:

17.8(6) Change in residence when participating in open enrollment. If the parent/guardian of a pupil who is participating in open enrollment changes the school district of residence during the term of the agreement, the parent/guardian shall have the option to leave the pupil in the receiving district under open enrollment, to open enroll to another school district, or to enroll the pupil in the new district of residence, thus terminating the open enrollment agreement. If the choice is to leave the pupil under open enrollment or to open enroll to another school district, the original district of residence shall be responsible for payment of the cost per pupil plus any applicable weightings or special education costs for the balance of the school year, if any, in which the move took place, providing the move took place on or after the ~~third Friday in September~~ *date specified in Iowa Code section 257.6, subsection 1*. The new district of residence shall be responsible for these payments during succeeding years of the agreement.

If the move takes place between the end of one school year and the ~~third Friday in September~~ *date specified in Iowa Code section 257.6, subsection 1*, of the following school year, the new district of residence shall be responsible for that year's payment as well as succeeding years.

If the pupil is to remain under open enrollment or to open enroll to another school district, the parent/guardian shall write a letter, delivered by mail or by hand on or before the ~~Thursday before the third Friday of the next September~~ *date specified in Iowa Code section 257.6, subsection 1*, to notify the original resident district, the new resident district, and the receiving district of this decision.

Timely requests under this rule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2).

ITEM 11. Amend subrule 17.8(7) as follows:

17.8(7) Change in residence when not participating in open enrollment. If a parent/guardian moves out of the school district of residence, and the pupil is not currently under open enrollment, the parent/guardian has the option for the pupil to remain in the original district of residence as an open enrollment pupil with no interruption in the education program or to open enroll to another school district. *This option is not available to the parent/guardian of a student who is entering kindergarten for the first time.* The parent/guardian exercising this option shall file an open enrollment request form with the new district of residence for processing and record purposes. This request shall be made on or before the ~~Thursday before the third Friday of the following September~~ *date specified in Iowa Code section 257.6, sub-*

EDUCATION DEPARTMENT[281](cont'd)

section 1. Timely requests under this subrule shall not be denied. If the request is for a high school pupil, the pupil shall not be subject to the initial 90-school-day ineligibility period of subrule 17.8(2). If the move is on or after the ~~third Friday in September~~ *date specified in Iowa Code section 257.6, subsection 1*, the new district of residence is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

ITEM 12. Amend rule 281—17.10(282) as follows:

281—17.10(282) Method of finance. Open enrollment options shall be made available for pupils at no instructional cost to their parents/guardians. Open enrollment pupils shall be considered enrolled resident pupils in the resident district and shall be included in the certified enrollment count of that district for the purposes of generating school foundation aid.

17.10(1) Full-time pupils. ~~For Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b,"~~ for full-time pupils, the resident district shall pay each year to the receiving district an amount equal to the state cost per pupil for the previous year ~~plus phase III money equal to the per-pupil amount for the previous year as provided by Iowa Code chapter 294A~~ plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

17.10(2) Dual enrolled pupils. ~~For Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b,"~~ for pupils who receive competent private instruction and are dual enrolled, the resident district shall pay each year to the receiving district an amount equal to .1 times the state cost per pupil for the previous year ~~plus phase III money equal to .1 times the per-pupil amount allocated for the previous year as provided by Iowa Code chapter 294A~~ plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4. However, a pupil dual enrolled in grades nine through twelve shall be counted in the same manner as a shared-time pupil under Iowa Code section 257.6(1)"c."

17.10(3) Home school assistance program pupils. ~~For Unless otherwise agreed to in the mediation under paragraph 17.4(6) "b,"~~ for pupils who receive competent private instruction and are registered for a home school assistance program, the resident district shall pay each year to the receiving district an amount equal to .6 times the state cost per pupil for the previous year ~~plus phase III money equal to .6 times the per-pupil amount for the previous year as provided by Iowa Code chapter 294A~~ plus any moneys received for the pupil as a result of non-English speaking weighting provided by Iowa Code section 280.4.

17.10(4) and 17.10(5) No change.

17.10(6) Partial-year situations. In the event that the pupil who is under open enrollment withdraws from school, moves into the district of attendance, moves out of state, moves to another district in the state of Iowa and elects to attend that district, graduates at midyear, is allowed to return to the district of residence during the school year, or other similar set of circumstances that result in the pupil no longer attending in the receiving district, payment of both cost per pupil and ~~phase III funds~~ will be prorated based on the number of quarters of school enrollment.

17.10(7) Late changes of open enrollment. The resident district and the receiving district boards by mutual agreement may effectuate the change in enrollment of an open enrollment pupil at any time following receipt of a petition for such change which is approved by the two boards. A change due to good cause is a late change in enrollment. If any change in

enrollment is made on or after the ~~third Friday in September~~ *date specified in Iowa Code section 257.6, subsection 1*, the resident district is not required to pay per-pupil costs or applicable weighting or special education costs to the receiving district until the first full year of the open enrollment.

ITEM 13. Amend subrule **17.14(4)**, paragraph "b," as follows:

b. If an open enrollment request is filed on behalf of a student whose parent/guardian moves out of the school district of residence and who wishes to remain in the district of residence as an open enrolled student without interruption in the student's educational program under subrule 17.8(7), the request shall be granted. *This option is not available to the parent/guardian of a student who is entering kindergarten for the first time.*

ARC 5416B

EDUCATION DEPARTMENT[281]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education hereby proposes to rescind Chapter 62, "Educational Improvement Projects," Iowa Administrative Code.

Chapter 62 was adopted and filed in 1984 to implement then Iowa Code chapter 260A. The legislation was never funded, and the Iowa Code chapter was rescinded in 1989. The rules in Chapter 62 serve no purpose and should be rescinded.

An agencywide waiver provision is provided in 281—Chapter 4.

Interested individuals may make written comments on the proposed amendment on or before October 31, 2006, at 4:30 p.m. Comments on the proposed amendment should be directed to Carol Greta, Office of the Director, Iowa Department of Education, Second Floor, Grimes State Office Building, Des Moines, Iowa 50319-0146; telephone (515)281-8661; E-mail carol.greta@iowa.gov; or fax (515)281-4122.

This amendment is intended to implement Iowa Code section 256.7(5).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Rescind and reserve **281—Chapter 62.**

ARC 5450B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 427.1(19), the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 11, “Tax Certification of Pollution Control or Recycling Property,” Iowa Administrative Code.

These amendments reflect the expansion of the property tax exemption to include property used to process waste glass products. The amendments include examples of recycling property typically considered eligible and remove an out-of-date reference to the Department of Water, Air, and Waste Management.

Any interested person may make written suggestions or comments on these proposed amendments on or before November 8, 2006. Such written materials should be directed to Jeff Geerts, Energy and Waste Management Bureau, Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319-0034; fax (515)281-8895. Persons wishing to convey their views orally should contact Jeff Geerts at (515)281-8176 or at the Wallace State Office Building.

The Energy and Waste Management Bureau encourages stakeholders submitting comments to utilize the following guidelines. These guidelines aid the Bureau in accurately understanding and creating a record of your input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual, or for a business or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

Also, there will be a public hearing on November 8, 2006, at 1 p.m. in the Fifth Floor East Conference Room of the Wallace State Office Building, 502 East Ninth Street, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who will attend the public hearing and have special requirements such as those related to hearing or mobility impairments should contact the Department of Natural Resources and advise of specific needs.

These amendments are intended to implement Iowa Code section 427.1(19).

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515)

281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule 11.6(1), introductory paragraph, as follows:

11.6(1) General. Property which has been installed and is used primarily to meet an effluent standard, a water quality standard, an emission standard or to control hydrocarbons, fugitive dust, odors or other air contaminants in a reasonably adequate manner shall be considered to be used primarily to control or abate pollution of water or air of the state. Property which has been installed to meet a standard more stringent than an emission or water quality standard shall be considered to be used primarily to enhance the quality of the water or air of this state. Personal property or improvements to real property as defined by Iowa Code section 427A.1 or any portion of the property used primarily in the manufacturing process and resulting directly in the conversion of waste plastic, wastepaper products, waste paperboard, *waste glass*, or waste wood into new raw materials or products composed primarily of recycled material shall be considered recycling property. Each request will be considered in the context of its particular circumstances.

ITEM 2. Amend subrule **11.6(3)**, paragraph “b,” subparagraph (5), as follows:

(5) Replacement boilers or changeovers in fuels unless made in compliance with an emissions reduction program approved by the department of water, air and waste management of the state of Iowa and unless in compliance with a schedule approved by the Environmental Protection Agency.

ITEM 3. Amend subrule **11.6(3)**, paragraph “e,” as follows:

e. Recycling - normally considered eligible. Property used in the conversion of waste plastic, wastepaper products, waste paperboard, *waste glass*, or waste wood into a raw material meeting industry specifications for use by a manufacturer of a recycled product including, but not limited to:

- (1) Property used to sort and prepare wastepaper products or waste paperboard to paper mill industry specifications.
- (2) Property used to sort and prepare wastepaper products or waste paperboard to cellulose insulation industry specifications.
- (3) Property used to sort and prepare wastepaper products or waste paperboard to animal bedding industry specifications.
- (4) Property used to sort and prepare wastepaper products or waste paperboard to packaging industry specifications.
- (5) Property used to sort and prepare waste plastic to re-cycled plastic industry specifications (e.g., extrusion, injection, blow) without additional required changes to the size or shape of the plastic before the plastic enters the manufacturing process.
- (6) Property used to sort and prepare waste wood to industry specifications for products such as oriented-strand board, medium-density fiberboard, finger-jointed lumber, furniture, animal bedding, mulch, bulking material for the composting process, or fuel.
- (7) *Property used to sort and prepare waste glass to glass industry end-market specifications (e.g., container manufacturing, fiberglass manufacturing, abrasives, aggregate) without additional required changes to the size or shape of the glass before the glass enters the manufacturing process.*

ARC 5449B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 455B.172, the Environmental Protection Commission hereby gives Notice of Intended Action to amend Chapter 43, “Water Supplies—Design and Operation,” Iowa Administrative Code.

This chapter pertains to the public water supply program’s requirements for design and operation. Construction permits are required of all systems for any construction, installation, or modification of any project that affects a public water supply system. Construction permitting fees are assessed to the public water supplies depending upon the project type, with a cap on the fees for a specific project currently in rule. The proposed amendments will institute a cap on the fees collected from a public water supply system owner during a calendar year. In addition, the fee schedule for a time extension request is corrected.

Any interested person may make written suggestions or comments pertaining to the proposed amendments on or before November 3, 2006. Such written materials should be directed to Diane Moles, Water Supply Engineering Section, Iowa Department of Natural Resources, 401 SW 7th Street, Suite M, Des Moines, Iowa 50309-4611; fax (515) 725-0348 or E-mail diane.moles@dnr.state.ia.us. Persons wishing to convey their views orally should contact Diane Moles at (515)725-0281.

The Water Supply Engineering Section encourages interested persons who submit comments to utilize the following guidelines. These guidelines aid in accurately understanding and creating a record of public input.

1. Include your mailing address and contact information.
2. Please state if you are submitting comments as an individual or on behalf of a municipality, business, or organization.
3. Cite the specific rule(s) on which you are commenting.
4. Explain your views as clearly as possible by describing any assumptions, data, or technical information you utilized.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative language that you think would improve the specific rule(s) and explain why.

A public hearing will be held on November 1, 2006, at 10 a.m. in the Conference Room at the IDNR Water Supply office at 401 SW 7th Street, Suite I, Des Moines, Iowa, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department of Natural Resources to advise of specific needs.

These amendments are intended to implement Iowa Code section 17A.3(1)“b,” chapter 455B, division III, part 2, and sections 455B.105 and 455B.173.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subparagraph **43.3(3)“c”(3)** as follows:

(3) Change orders, addenda, permit supplements, and request for time extensions. A fee for change orders, addenda, or permit supplements, or request for time extension will only be charged if the aggregate of the changes approved for the project to date cause the total project construction cost to exceed the original project construction cost by at least 5 percent. For water main extensions, the fee will be charged if the total length of water main exceeds the original approved length by 5 percent. *The request for a time extension is a flat fee.*

Categories	Rate
Change orders, addenda, and permit supplements for water mains	\$0.10/ft. of additional water main, plus 0.2% of additional non-water-main-related construction costs; minimum fee \$50
Change orders, addenda, and permit supplements for non-water-main-related construction costs	0.2% of the additional non-water-main-related construction costs; minimum fee \$50
Request for time extension	\$50

ITEM 2. Adopt **new** subparagraph **43.3(3)“c”(4)** as follows:

(4) Calendar year construction permit fee cap. The total amount of construction permit fees for a public water supply system owner during any calendar year shall not exceed \$5,000 for water mains and \$16,000 for non-water-main-related construction projects.

ARC 5414B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 249A.4 and 2006 Iowa Acts, House File 2734, section 1, the Department of Human Services proposes to amend Chapter 77, “Conditions of Participation for Providers of Medical and Remedial Care,” Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Chapter 79, “Other Policies Relating to Providers of Medical and Remedial Care,” and Chapter 83, “Medicaid Waiver Services,” Iowa Administrative Code.

These amendments add case management as a covered service under the Medicaid home- and community-based services elderly waiver. Area agencies on aging have been providing case management services for elderly waiver service

HUMAN SERVICES DEPARTMENT[441](cont'd)

without Medicaid funding. The General Assembly directed the Department, in collaboration with the Department of Elder Affairs, to submit an amendment to the elderly waiver to include case management as a Medicaid-covered waiver service. The waiver amendment has been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

Under these amendments, case management provided for consumers under the elderly waiver will be eligible for federal financial participation under the Medicaid program. Funding for the case management services formerly provided through the area agencies on aging is being transferred to the Medicaid appropriation to be used for the nonfederal matching funds. The maximum monthly cost per client for case management under the elderly waiver is set at \$70. Area agencies on aging will continue to provide case management services for frail elders who are not eligible for Medicaid.

This change may provide elderly waiver consumers with additional choices for case management. Other case management entities, such as the Department of Public Health and county case management services, have voiced interest in providing case management services under the elderly waiver.

These amendments do not provide for waivers in specified situations because the changes are mandated by 2005 Iowa Acts, chapter 167, section 14, and because the changes provide a benefit. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 5417B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments on or before November 1, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

These amendments are intended to implement Iowa Code section 249A.4; 2005 Iowa Acts, chapter 167, section 14; and 2006 Iowa Acts, House File 2734, section 1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 5451B**HUMAN SERVICES
DEPARTMENT[441]****Amended Notice of Intended Action**

Pursuant to the authority of Iowa Code sections 234.6 and 249A.4 and 2006 Iowa Acts, House File 2780, section 18, the Department of Human Services proposes to amend Chapter 88, "Managed Health Care Providers," and Chapter 153, "Funding for Local Services," Iowa Administrative Code. Notice of Intended Action to solicit comment on amendments Adopted and Filed Without Notice, published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC**

5288B, was published in the Iowa Administrative Bulletin on the same date as **ARC 5282B**.

Interested persons may present their views on these proposed amendments and on the amendments proposed in the Notice of Intended Action published herein as **ARC 5418B** either orally or in writing at the public hearings to be held at the places and times listed below. Any person who intends to attend a public hearing and requires special accommodations for specific needs such as hearing or mobility impairments should contact the Office of Policy Analysis at (515) 281-2440.

Conference Room 104 City View Plaza 1200 University Ave. Des Moines, Iowa	Wednesday, November 1, 2006 8:30 a.m.
ICN Room, Fourth Floor Trosper-Hoyt Building 822 Douglas St. Sioux City, Iowa	Wednesday, November 1, 2006 9 to 10 a.m.
ICN Room Pottawattamie County DHS Office 417 E. Kanesville Blvd. Council Bluffs, Iowa	Wednesday, November 1, 2006 10 a.m.
Room 220 Pinecrest Office Building 1407 Independence Ave. Waterloo, Iowa	Wednesday, November 1, 2006 10 a.m. to 12 noon
Second Floor Conference Room Human Services Center 126 S. Kellogg Ave. Ames, Iowa	Wednesday, November 1, 2006 11 a.m. to 12 noon
Conference Room 3 Wapello County Department of Human Services 120 E. Main St. Ottumwa, Iowa	Wednesday, November 1, 2006 1 to 2 p.m.
Third Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	Thursday, November 2, 2006 9:30 a.m.
Main Conference Room Johnson County Department of Human Services 911 N. Governor St. Iowa City, Iowa	Thursday, November 2, 2006 1 to 2 p.m.
First Floor Board of Supervisors Room Scott County Administrative Center 428 Western Ave. Davenport, Iowa	Friday, November 3, 2006 10 a.m.

The deadline for submission of written comments on the proposed amendments is extended to November 3, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

ARC 5418B**HUMAN SERVICES
DEPARTMENT[441]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services proposes to amend Chapter 153, “Funding for Local Services,” Iowa Administrative Code.

The Department has previously adopted amendments to move the administration of the State Payment Program to the county central point of coordination (CPC) administrators. Amendments to Chapter 153, Division IV, “State Payment Program for Services to Adults with Mental Illness, Mental Retardation, and Developmental Disabilities,” were Adopted and Filed Without Notice and were published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5288B**.

Under the provisions of 2006 Iowa Acts, House File 2780, division III, section 19, most of the Department’s State Payment Program appropriation will be allocated to counties. In consultation with the Legislative Services Agency, the Department and the counties have developed a methodology for distributing to the counties the funding appropriated for state fiscal year 2007 for county residents who receive State Payment Program services on and after October 1, 2006.

The Department has met with each county to determine the amounts needed for each county to fund state case services and other support for county residents for the remainder of the fiscal year, taking into consideration the difference between county reimbursement rates and the capped reimbursement rates paid by the state. The Department has determined that the amounts to be allocated to each county for the nine-month period from October 1, 2006, to July 1, 2007, do not exceed the funding available.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission has reviewed the amendments to Chapter 153 that were previously adopted and has recommended the following changes, which are included in these amendments:

- Clarify in rule 441—153.51(234) that a provider of service does not have to be in Iowa.
- Extend from 10 working days to 15 working days the period the county has to submit application materials to the Division of Mental Health and Disability Services in subrules 153.53(4) and 153.53(5) and the period the Division has to respond to the county in subrule 153.56(1). (These periods were previously 30 or 60 days.)
- Add provisions for “episodic reimbursement” in subrules 153.57(2) and 153.57(3) to cover payment for services that are not of a recurring nature, such as inpatient hospitalization.
- Add provisions in subrule 153.57(3) for prorated payment for a new resident if funding is determined to be available and for payment of 50 percent of the expected amount (instead of no payment) if the county is not timely in responding to the Department’s list of active members.
- Remove obsolete and confusing language in subrules 153.53(2), 153.53(4), and 153.55(1).

- Correct terminology throughout the rules to clarify the roles of the Division, the county, and the CPC.

These amendments do not provide for waivers in specified situations. The amendments benefit the parties affected by providing time limits that are more realistic and payment provisions that are more adequate to meet program needs. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 5419B**. The purpose of this Notice is to solicit comment on that submission, the subject matter of which is incorporated by reference.

Any interested person may make written comments on the proposed amendments and on the amendments proposed in the Notice of Intended Action published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5282B** on or before November 3, 2006. Comments should be directed to Mary Ellen Imlau, Office of Policy Analysis, Department of Human Services, Hoover State Office Building, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515)281-4980 or by E-mail to policyanalysis@dhs.state.ia.us.

Interested persons may also present their views on these proposed amendments either orally or in writing at the public hearings to be held at the places and times listed below. Any person who intends to attend a public hearing and requires special accommodations for specific needs such as hearing or mobility impairments should contact the Office of Policy Analysis at (515)281-2440.

Conference Room 104 City View Plaza 1200 University Ave. Des Moines, Iowa	Wednesday, November 1, 2006 8:30 a.m.
ICN Room, Fourth Floor Trosper-Hoyt Building 822 Douglas St. Sioux City, Iowa	Wednesday, November 1, 2006 9 to 10 a.m.
ICN Room Pottawattamie County DHS Office 417 E. Kanesville Blvd. Council Bluffs, Iowa	Wednesday, November 1, 2006 10 a.m.
Room 220 Pinecrest Office Building 1407 Independence Ave. Waterloo, Iowa	Wednesday, November 1, 2006 10 a.m. to 12 noon
Second Floor Conference Room Human Services Center 126 S. Kellogg Ave. Ames, Iowa	Wednesday, November 1, 2006 11 a.m. to 12 noon
Conference Room 3 Wapello County Department of Human Services 120 E. Main St. Ottumwa, Iowa	Wednesday, November 1, 2006 1 to 2 p.m.
Third Floor Conference Room Nesler Centre 799 Main St. Dubuque, Iowa	Thursday, November 2, 2006 9:30 a.m.
Main Conference Room Johnson County Department of Human Services 911 N. Governor St. Iowa City, Iowa	Thursday, November 2, 2006 1 to 2 p.m.
First Floor Board of Supervisors Room Scott County Administrative Center 428 Western Ave. Davenport, Iowa	Friday, November 3, 2006 10 a.m.

HUMAN SERVICES DEPARTMENT[441](cont'd)

These amendments are intended to implement Iowa Code section 234.6 and 2006 Iowa Acts, House File 2780, division III.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 5431B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135B.7, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 51, “Hospitals,” Iowa Administrative Code.

The proposed amendments are expressly limited to the licensure of a long-term acute care hospital within a currently licensed hospital. The proposed amendments also specifically exclude specialty hospitals currently recognized within the federal Medicare system.

The Department's action comes as the result of two petitions recently filed by St. Luke's Hospital of Cedar Rapids. The Department denied a request for declaratory order after comments made during a public meeting indicated a universal need for long-term acute care hospitals. Granting the request for declaratory order would have benefited only St. Luke's Hospital, while the emerging trends indicate a state-wide need for long-term acute care facilities. While the request for declaratory order was denied, a petition for rule making filed by the Cedar Rapids hospital was granted.

Under its historical interpretation of Iowa law, the Department has always viewed Iowa Code chapter 135B as permitting licensed hospital premises that may consist of multiple buildings but not permitting the licensing of a hospital within the premises of an existing, licensed hospital. This interpretation has not permitted a single, licensed building to be partitioned to house multiple hospital licensees.

The proposed amendments keep pace with recently emerging federal Medicare policies that affect health care delivery systems in all states, including Iowa. The proposed changes to the Department's administrative rules will more closely reflect the current federal Medicare rules, which now provide a reimbursement system for long-term acute care hospitals.

The Department is unable to determine the fiscal impact associated with the proposed amendments. The number of possible long-term acute care hospitals that might be created as a result of these rules is unknown. Also unknown to the Department is the cost of construction for a long-term acute care hospital. The proposed amendments do not mandate the creation of long-term acute care hospitals but, rather, permit the establishment of such hospitals. Adoption of the proposed amendments also does not impact the actions of the

Health Facilities Council located within the Iowa Department of Public Health, which must approve new or expanded medical services in the State of Iowa.

The proposed amendments were presented to the Hospital Licensing Board at its July 26, 2006, meeting, at which time the Board approved the amendments.

The State Board of Health initially reviewed the proposed amendments at its September 13, 2006, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 31, 2006. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail should be sent to david.werning@dia.state.ia.us.

There will be a public hearing on November 1, 2006, at 10 a.m. in Conference Room 319 of the Lucas State Office Building, Des Moines, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who intends to attend the public hearing and has special requirements such as those related to hearing or mobility impairments should contact the Department of Inspections and Appeals and advise of specific needs.

The proposed amendments are intended to implement Iowa Code sections 10A.104(5) and 135B.7.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Rescind rule 481—51.1(135B) and adopt the following **new** rule in lieu thereof:

481—51.1(135B) Definitions. As used in this chapter, unless the context otherwise requires, the following definitions apply:

“Critical access hospital” means any hospital located in a rural area and certified by the Iowa department of public health as being a necessary provider of health care services to residents of the area. A “critical access hospital” makes available 24-hour emergency care, is a designated provider in a rural health network, and meets the criteria specified pursuant to 481—51.53(135B). If swing-bed approval has been granted, all 25 beds may be used interchangeably for acute or skilled nursing facility level of care services.

“Department” means the Iowa department of inspections and appeals.

“Governing board” means the board of trustees, the owner or the person or persons designated by the owner as the governing authority who shall have supreme authority in the hospital and be responsible for the management, control, and appointment of the medical staff.

“Governmental unit” means the state, or any county, municipality, or other political subdivision, or any department, division, board or other agency of any of the foregoing.

“Hospital” or “general hospital” means an institution, place, building, or agency represented and held out to the general public as ready, willing and able to furnish care, accommodations, facilities and equipment for the diagnosis or treatment, over a period exceeding 24 hours, of two or more nonrelated individuals suffering from illness, injury, infirmity or deformity, or other physical or mental condition for

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

which medical, surgical and obstetrical care services are provided. The term "hospital" does not include the following:

1. Any institution for well children, day nursery and child care center, foster boarding homes or houses, and homes for disabled children. However, such institutions that have a dual function, including nursing and medical care, and care of the sick are required to be licensed.

2. Homes, houses or institutions for aged persons which limit their functions to room and board and provide no medical or nursing care and house no bedridden person.

3. Dispensary or first-aid stations maintained for the care of employees, students, customers, and members of any commercial or industrial plant, educational institution, or convent.

"Long-term acute care hospital" means any hospital that has an average inpatient length of stay greater than 25 days, and that provides extended medical and rehabilitative care for patients who are clinically complex and who may suffer from multiple acute or chronic conditions. Services provided by a long-term acute care hospital include but are not limited to comprehensive rehabilitation, respiratory therapy, head trauma treatment, and pain management. A long-term acute care hospital shall meet the requirements for a general hospital including emergency services, except that obstetrical facilities are not required, and, if the long-term acute care hospital is located within a separately licensed hospital and does not provide its own emergency services, the long-term acute care hospital shall contract for emergency services.

"Medical staff" means an organized body that is composed of individuals appointed by the hospital governing board, that operates under bylaws approved by the governing board and that is responsible for the quality of medical care provided to patients by the hospital. All members of the medical staff, one of whom shall be a licensed physician, shall be licensed to practice in the state of Iowa.

"Person" means any individual, firm, partnership, corporation, company, association, or joint stock association and includes any trustee, receiver, assignee, or other similar representative.

"Premises" means any or all designated portions of a building or structure, enclosures or places in the building, or real estate when the distinct and clearly identifiable parts provide separate care and services. The definition of "premises" shall not be construed to permit the existence of a separately licensed specialty hospital within the physical structure of a general hospital. A specialty hospital shall be defined pursuant to 42 CFR Section 411.351 and any amendments thereto, or pursuant to any regulations promulgated by the Secretary of Health and Human Services.

"Registered nurse" means a person who has graduated from an accredited school of nursing and who is registered in the state of Iowa.

"Specialized hospital" means any hospital devoted primarily to the specialized care and treatment of persons with chronic or long-term illness, injury, or infirmity. The diagnosis, treatment or care shall be administered by or performed under the direction of persons especially qualified in the diagnosis and treatment of the particular illness, injury, or infirmity. A specialized hospital shall meet the requirements for a general hospital. "Specialized hospital" as defined in this rule does not include a specialty hospital defined pursuant to 42 CFR Section 411.351.

ITEM 2. Amend rule 481—51.2(135B) as follows:

481—51.2(135B) Classification, compliance and license.

51.2(1) Classification. For the purpose of administering the hospital licensing law, all institutions subject to licensure shall be classified in the following manner: *as a critical access hospital, general hospital, long-term acute care hospital, or specialized hospital. The license issued by the department shall clearly identify the classification of the hospital.*

a.—General hospital. Any institution providing hospital care, including general medical, surgical or maternity care and treatment.

b.—Specialized hospital or sanatorium. Any institution providing specialized care and treatment, e.g., tuberculosis, pediatric, mental diseases, orthopedics, etc.

51.2(2) Compliance requirements for each classification.

a.—General hospitals. Any A hospital classified as a general hospital shall comply with all of the general regulations for hospitals and shall comply with regulations pertaining to specialized services, if specialized services are provided in the hospital.

b.—Specialized hospitals and sanatoriums. Specialized hospitals and sanatoriums shall comply with all general regulations for hospitals and all regulations pertaining to specialized services provided by the hospital, sanatorium or institution.

51.2(3) Separate license required. A separate license shall be required for each hospital even though more than one is operated under the same management. A separate license is not required for separate buildings of a hospital located on separate parcels of land, which are not adjoining but provide elements of the hospital's full range of services for the diagnosis, care, and treatment of human illness, including convalescence and rehabilitation, and which are organized under a single owner or governing board with a single designated administrator and medical staff.

51.2(4) License not required. ~~The following are not deemed to come within the meaning of the hospitals licensing law and shall not be required to obtain a license under this chapter:~~

~~a.—Any institution for well children, day nursery and child care center, foster boarding homes or houses and homes for handicapped children. However, such institutions as have a dual function, including nursing and medical care, and care of the sick are required to be licensed.~~

~~b.—Homes, houses or institutions for aged persons which limit their functions to board and room and provide no medical or nursing care and house no bedridden person.~~

~~c.—Dispensary or first-aid stations maintained for the care of employees, students, customers, members of any commercial or industrial plant, educational institution or convent.~~

51.2(5) Posting of license. The license shall be conspicuously posted on the premises.

51.2(6) 5) The department shall *may* recognize, in lieu of its own licensure inspection, the comparable inspections and inspection findings of the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and *or* the American Osteopathic Association (AOA), if the department is provided with copies of all requested materials relating to the inspection process.

51.2(7) 6) Hospitals not accredited by the JCAHO or the AOA shall be inspected by the department utilizing the current Medicare conditions of participation found in Title XVIII of the federal Social Security Act and 42 CFR Part 482, Subparts A, B, C, D, and E, or 42 CFR Part 485, Subpart F, as of October 1, 2004 2005. The department may promulgate additional standards. Where practical, surveys for state licensure purposes shall be performed concurrently with Medicare certification. The department may recognize, in

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

lieu of its own licensure inspection, the comparable inspection and inspection findings of a Medicare conditions of participation survey.

This rule is intended to implement Iowa Code chapter 135B.

ITEM 3. Rescind rule 481—51.4(135B) and adopt the following **new** rule in lieu thereof:

481—51.4(135B) Long-term acute care hospital located within a general hospital.

51.4(1) If a long-term acute care hospital occupies the same building, premises or physical location of a general hospital, all treatment facilities and administrative offices for each hospital shall be clearly marked and separated from each other, and located within the licensed premises of each licensee.

a. Treatment facilities shall be sufficient to meet the medical needs of the patients.

b. Administrative offices shall include, but not be limited to, record rooms and personnel offices.

c. There shall be clearly identifiable and distinguishable signs for each hospital.

51.4(2) If a long-term acute care hospital occupies the same building, premises or physical location of a general hospital, each hospital shall have its own entrance. The separate entrance shall have appropriate signs and shall be clearly identifiable as belonging to a particular hospital. Nothing shall prohibit a long-term acute care hospital that is occupying the same building, premises or physical location as a general hospital from utilizing the entrance, hallway, stairs, elevators or escalators of the general hospital to provide access to the long-term acute care hospital's separate entrance.

51.4(3) A long-term acute care hospital located within a general hospital shall have sufficient staff to meet the patients' needs. No nursing services staff of either the long-term acute care hospital or the host general hospital shall be simultaneously assigned patient duties in both licensed hospitals.

51.4(4) Each long-term acute care hospital located within a general hospital and the host general hospital shall have a separate and distinct governing board, which shall be in control of the respective hospital. No more than one board member shall serve in a common capacity on the governing board of each licensed hospital. For the purposes of this rule, control exists if an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution.

51.4(5) A long-term acute care hospital located within a general hospital may contract with the host general hospital for the provision of services, including but not limited to pharmaceutical, radiological, laboratory, food and dietetic, surgical, anesthesia, emergency, housekeeping, laundry and environmental, or other services necessary to maintain a clean and safe physical environment. The contract shall be written and executed by the governing boards of the long-term acute care hospital and the host general hospital. All contracts shall clearly delineate the responsibilities of and services provided by the long-term acute care hospital and the host general hospital.

51.4(6) Any life safety code violation identified by the state fire marshal during an inspection of a licensee may be a life safety code violation for both the long-term acute care hospital and the general hospital.

ITEM 4. Amend subrule 51.51(3) as follows:

51.51(3) Life safety. Facilities and construction shall be in accordance with National Fire Protection Association

(NFPA) Standard 99 (Standards for Health Care Facilities — 1996 1999 edition), Standard 101 (Life Safety Code — 1985 2000 edition), and rules of local authorities. Facilities and construction shall be approved by the state fire marshal or local authority having jurisdiction.

ARC 5429B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 58, "Nursing Facilities," and Chapter 61, "Minimum Physical Standards for Nursing Facilities," Iowa Administrative Code.

The proposed amendments permit long-term care facilities to establish person directed care environments, which are defined as facilities or portions of facilities in which the provision of care or services promotes decision making and choices by the residents, enhances the primary caregiver's capacity to respond to each resident's needs, and promotes a homelike environment. The proposed amendments eliminate regulatory barriers to the establishment of person directed care environments by inserting resident choice in various provisions, including those dealing with resident clothing, bathing, living arrangements, care and treatment plans, medication administration, and meal planning. Additionally, the proposed amendments remove certain restrictions on employee duties, thus permitting employees to serve in dual capacities, such as resident care and meal preparation.

Additional changes made to the rules by the proposed amendments strike outdated requirements dealing with the physical structure of nursing facilities, such as the arrangement of resident rooms, and requirements dealing with specific rooms. Adoption of the proposed amendments will permit long-term care facilities to construct new facilities based on such designs as the Green House concept, which divides larger facilities into smaller neighborhoods or living units. Facilities that wish to renovate, too, will be able to break up larger traditional structures into smaller, person directed care environments.

Development of the proposed amendments began when the Department solicited input from the state's long-term care industry. The industry suggestions were then reviewed by a regulatory work group of the Iowa Person Directed Care Coalition, which made further suggestions regarding content. In addition to the major regulatory changes contained in the proposed amendments, numerous corresponding technical changes are made throughout Chapters 58 and 61.

Information about the development of the proposed amendments and a summary of the proposed amendments can be obtained on the Department's Web site at the following Internet address: <http://www.state.ia.us/government/dia/Person%20Directed%20Care.ppt>.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

The Department is unable to determine the fiscal impact associated with the proposed amendments. It is unknown as to the number of possible nursing facilities that might want to undertake new construction or renovations to existing buildings to establish person directed care environments. Also unknown to the Department is the cost of construction or renovation associated with implementation of the amendments. The proposed amendments do not mandate the creation of person directed care environments but, rather, permit nursing facilities to create an alternate living environment for their residents.

The proposed amendments were presented to the State Board of Health for initial review at the Board's September 13, 2006, meeting.

Any interested person may make written suggestions or comments on the proposed amendments on or before October 31, 2006. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail should be sent to david.werning@dia.state.ia.us.

There will be a public hearing on November 1, 2006, at 2 p.m. in Conference Room 319 of the Lucas State Office Building, Des Moines, at which time persons may present their views either orally or in writing. At the meeting, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the amendments. Any person who intends to attend the public hearing and has special requirements such as those relating to hearing or mobility impairments should contact the Department of Inspections and Appeals and advise of specific needs.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are proposed.

ITEM 1. Amend rule **481—58.1(135C)** as follows:

Amend the following definitions:

"Ambulatory" means the condition of a person who immediately and without aid of another is physically and or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Nonambulatory" means the condition of a person who immediately and without aid of another is not physically and or mentally capable of traveling a normal path to safety, including the ascent and descent of stairs.

"Personal care" means assistance with the activities of daily living which the recipient can perform only with difficulty. Examples are help *assistance* in getting in and out of bed, assistance with personal hygiene and bathing, help *assistance* with dressing and feeding, *meal assistance*, and supervision over medications which can be self-administered.

"Responsible party" means the person who signs or co-signs the admission agreement required in 58.13(135C) or the resident's guardian or conservator if one has been appointed. In the event that a resident has neither a guardian, conservator nor person who signed or cosigned the resident's *does not have a guardian, conservator or other person signing the admission agreement*, the term "responsible party" shall include the resident's sponsoring agency, e.g., the department of social human services, Veterans' Administration *the U.S. Department of Veterans Affairs*, religious groups,

fraternal organizations, or foundations that assume responsibility and advocate for their client patients and pay for their health care.

"Restraints" means ~~the measures taken to control a resident's physical activity for the resident's own protection or for the protection of others~~ *any chemical, manual method or physical or mechanical device, material, or equipment attached to the resident's body that the individual cannot remove easily which restricts freedom of movement or normal access to one's body.*

Insert the following **new** definition in alphabetical order:

"Person directed care environment" means the provision of care and services provided in a facility that promotes decision making and choices by the resident, enhances the primary caregiver's capacity to respond to each resident's needs, and promotes a homelike environment. Examples of a person directed care environment include, but are not limited to, the Green House concept, the Eden alternative, service houses and neighborhoods.

ITEM 2. Amend subrules 58.10(2) and 58.10(8) as follows:

58.10(2) There shall be a written job description developed for each category of worker. The job description shall include title of job, job summary, ~~pay range~~, qualifications (formal education and experience), skills needed, physical requirements, and responsibilities. (III)

58.10(8) Infection control program. Each facility shall have a written and implemented infection control program ~~addressing the following; and exposure control program with policies and procedures based on the guidelines issued by the Centers for Disease Control and Prevention, U.S. Department of Health and Human Services. (I, II, III) CDC guidelines are available at <http://www.cdc.gov/ncidod/dhqp/index.html>.~~

a. ~~Techniques for hand washing consistent with Guidelines for Handwashing and Hospital Control, 1985, Centers for Disease Control, U.S. Department of Health and Human Services, PB85-923404; (I, II, III)~~

b. ~~Techniques for handling of blood, body fluids, and body wastes consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)~~

c. ~~Decubitus care; (I, II, III)~~

d. ~~Infection identification; (I, II, III)~~

e. ~~Resident care procedures to be used when there is an infection present which are consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)~~

f. ~~Sanitation techniques for resident care equipment; (I, II, III)~~

g. ~~Techniques for sanitary use and reuse of feeding syringes and single-resident use and reuse of urine collection bags; (I, II, III)~~

h. ~~Techniques for use and disposal of needles, syringes, and other sharp instruments consistent with Guideline for Isolation Precautions in Hospitals, Centers for Disease Control, U.S. Department of Health and Human Services, PB96-138102; (I, II, III)~~

i. ~~Aseptic techniques when using; (I, II, III)~~

(1) ~~Intravenous or central line catheter consistent with Guidelines for Prevention of Intravascular Device Related Infections, Centers for Disease Control, U.S. Department of Health and Human Services, PB97-130074, (I, II, III)~~

(2) ~~Urinary catheter, (I, II, III)~~

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

(3) Respiratory suction, oxygen or humidification, (I, II, III)

(4) Dressings, soaks, or packs, (I, II, III)

(5) Tracheostomy, (I, II, III)

(6) Nasogastric or gastrostomy tubes, (I, II, III)

CDC Guidelines may be obtained from the U.S. Department of Commerce, Technology Administration, National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (1-800-553-6847).

ITEM 3. Amend subrule **58.11(1)**, paragraph “i,” as follows:

i. Those persons employed as nurse’s aides, orderlies, or attendants in a nursing facility who have not completed the state-approved 60 75-hour nurse’s aide program shall be required to participate in a structured on-the-job training program of 20 hours’ duration to be conducted prior to any resident contact, except that contact required by the training program. This educational program shall be in addition to facility orientation. Each individual shall demonstrate competencies covered by the curriculum. This shall be observed and documented by an R.N. and maintained in the personnel file. No aide shall work independently until this is accomplished, nor shall ~~their~~ *the aide’s* hours count toward meeting the minimum hours of nursing care required by the department. The curriculum shall be approved by the department. An aide who has completed the *state-approved* 60 75-hour course may model skills to be learned.

Further, such personnel shall be enrolled in a state-approved 60 75-hour nurse’s aide program to be completed no later than six months from the date of employment ~~or the effective date of implementation of this rule, whichever is the later~~. Those persons employed as nurse’s aides, orderlies, or attendants ~~by the facility prior to the effective date of this rule shall be exempt from participation in the 20-hour structured on-the-job training requirement~~. If the *state-approved* 60 75-hour program has been completed prior to employment, the on-the-job training program requirement is waived. The 20-hour course is in addition to the 60 75-hour course and is not a substitute in whole or in part. The 60 75-hour program, approved by the department, may be provided by the facility or academic institution.

Newly hired aides who have completed the *state-approved* 60 75-hour course shall demonstrate competencies taught in the 20-hour course upon hire. This shall be observed and documented by an R.N. and maintained in the personnel file.

All personnel administering medications must have completed the state-approved training program in medication administration. (II)

ITEM 4. Amend subrule **58.11(3)**, paragraph “a,” as follows:

a. Each health care facility shall submit a form specified by the department of public safety to the department of public safety, and receive the results of a criminal history check and dependent adult abuse record check before any person is employed in a health care facility. The health care facility ~~may~~ *shall* submit a form specified by the department of human services to the department of human services to request a child abuse history check. For the purposes of this subrule, “employed in a facility” shall be defined as any individual who is paid, either by the health care facility or any other entity (i.e., temporary agency, private duty, Medicare/Medicaid or independent contractors), to provide direct or indirect treatment or services to residents in a health care facility. Direct treatment or services include those provided through person-to-person contact. Indirect treatment or services in-

clude those provided without person-to-person contact such as those provided by administration, dietary, laundry, and maintenance. Specifically excluded from the requirements of this subrule are individuals such as building contractors, repair workers or others who are in a facility for a very limited purpose, are not in the facility on a regular basis, and who do not provide any treatment or services to the residents of the health care facility. (I, II, III)

ITEM 5. Amend subrule **58.12(1)**, paragraph “b,” as follows:

b. No nursing facility shall admit more residents than the number of beds for which it is licensed, *except guest rooms for visitors*. (II, III)

ITEM 6. Amend subrule **58.12(2)**, paragraphs “a” and “d,” as follows:

a. Prior notification shall be made to the *resident, as well as the resident’s* next of kin, legal representative, attending physician, and sponsoring agency, if any, prior to transfer or discharge of any resident. (III)

d. Advance notification ~~by telephone~~ will be made to the receiving facility prior to the transfer of any resident. (III)

ITEM 7. Amend subrule **58.15(7)**, paragraph “a,” as follows:

a. An employment record shall be kept for each employee, consisting of the following information: name and address of employee, social security number of employee, date of birth of employee, date of employment, experience and education, references, position in the home, *criminal history and dependent adult abuse background checks*, and date and reason for discharge or resignation. (III)

ITEM 8. Amend subrule 58.16(3) as follows:

58.16(3) Residents shall have clean clothing as needed to present a neat appearance, *to be free of odors, and to be comfortable*. Clothing shall be *based on resident choice and shall be appropriate to their residents’* activities and to the weather. (III)

ITEM 9. Amend subrule 58.16(9) as follows:

58.16(9) ~~Residents~~ *Except for those who request differently, residents* who are not bedfast shall be fully dressed each day to maintain self-esteem and promote *the residents’* normal lifestyle lifestyles. (III)

ITEM 10. Amend subrule 58.16(10) as follows:

58.16(10) Residents shall ~~be required to bathe at least twice a week receive a bath of their choice, based on the facility’s accommodations, as needed to maintain proper hygiene~~. (II, III)

ITEM 11. Amend subrule 58.18(1) as follows:

58.18(1) Individual health care plans shall be based on *resident treatment decisions*, the nature of the illness or disability, treatment, and care prescribed. ~~Long- and short-term goals~~ *Goals* shall be developed by each discipline providing service, treatment, and care. These plans shall be in writing, revised as necessary, and kept current. They shall be made available to all those rendering the services and for review by the department. (III)

ITEM 12. Amend subrule 58.18(4) as follows:

58.18(4) The facility shall provide prompt response from qualified staff for the resident’s use of the ~~electrically-operated~~ nurse call system. (II, III) (Prompt response being considered as no longer than 15 minutes.)

ITEM 13. Amend subrule **58.19(1)**, paragraph “n,” subparagraphs (5) and (7), as follows:

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

(5) Assistance with food preparation and ~~feeding meal assistance~~ including total ~~feeding assistance~~ if needed; (II, III)

(7) ~~Tube feeding~~ *Enteral nutrition* (to be performed by a registered nurse or licensed practical nurse only); (I, II, III)

ITEM 14. Amend subrule 58.19(2) as follows:

58.19(2) Medication and treatment.

a. No change.

b. ~~Decubitus Wound~~ care; (I, II)

c. ~~Heat lamp~~; (II, III)

d c. ~~Clinitest/acetest~~ *Blood glucose monitoring*; (I, II)

e d. Vital signs, blood pressure, and weights; (I, II)

f e. Ambulation and transfer; (II, III)

g f. Provision of restraints; (I, II)

h g. Administration of oxygen (to be performed only by a registered nurse or licensed practical nurse or by a qualified aide under the direction of a registered nurse or licensed practical nurse); (I, II)

i h. Provision of all treatments; (I, II, III)

j i. ~~Provide Provision of~~ emergency and ~~arrange~~ medical care, including *arranging for* transportation, in accordance with written policies and procedures of the facility; (I, II, III)

k j. Provision of accurate assessment and timely intervention for all residents who have an onset of adverse symptoms which represent a change in mental, emotional, or physical condition. (I, II, III)

ITEM 15. Amend subrule 58.20(2) as follows:

58.20(2) Plan for and direct the nursing care, services, treatments, procedures, and other services in order that each resident's needs *and choices, where practicable*, are met; (II, III)

ITEM 16. Amend subrule 58.20(3) as follows:

58.20(3) Review the health care needs *and choices, where practicable*, of each resident admitted to the facility and assist the attending physician in planning for the resident's care; (II, III)

ITEM 17. Amend subrule 58.20(4) as follows:

58.20(4) Develop and implement a written health care plan in cooperation with, *to the extent practicable, the resident, the resident's family or the resident's legal representative, and other disciplines* others in accordance with instructions of the attending physician as follows:

a. The written health care plan, based on the assessment and reassessment of the ~~resident~~ *resident's* health needs *and choices, where practicable*, is personalized for the individual resident and indicates care to be given, ~~short-and-long-term~~ goals to be accomplished, and methods, approaches, and modifications necessary to achieve best results; (III)

b. and c. No change.

ITEM 18. Amend subrule 58.20(5) as follows:

58.20(5) Initiate preventative and restorative nursing procedures for each resident so as to achieve and maintain the highest possible degree of function, self-care, and independence *based on resident choice, where practicable*; (II, III)

ITEM 19. Amend subrule 58.20(8) as follows:

58.20(8) Plan with the *resident and the resident's* physician, *and* family and health-related agencies for the care of the resident upon discharge; (III)

ITEM 20. Amend subrule 58.20(16) as follows:

58.20(16) Supervise serving of diets *meals* to ensure that individuals unable to ~~feed~~ *assist* themselves are promptly fed

and that special eating ~~utensils~~ *adaptive devices* are available as needed; (II, III)

ITEM 21. Amend subrule 58.21(1) as follows:

58.21(1) Drug storage for residents who are unable to take their own medications and require supervision shall meet the following requirements:

a. No change.

b. ~~A bathroom shall not be used for drug storage~~; (III)

e b. The drug storage cabinet shall be kept locked when not in use; (III)

d c. The medication cabinet key shall be in the possession of the person directly responsible for issuing medications; (II, III)

e d. Double-locked storage of Schedule II drugs shall not be required under single unit package drug distribution systems in which the quantity stored does not exceed a three-day supply and a missing dose can be readily detected. (II)

ITEM 22. Amend subrule 58.21(12) as follows:

58.21(12) Emergency medication ~~tray medications~~. A nursing facility shall provide an emergency medication ~~tray~~, *medications pursuant to the following requirements*: (III) ~~There shall be compliance with the following requirements~~:

a. Prescription drugs as well as nonprescription items ~~in the tray~~ must be prescribed or approved by the physician, in consultation with the pharmacist, who provides emergency service to the facility; (III)

b. The ~~tray~~ *emergency medications* shall be stored in an accessible place; (III)

c. ~~The tray shall contain a~~ A list of its contents *the emergency medications* and quantities of each item ~~on the outside cover and within the box shall be maintained by the facility~~; (III)

d. The ~~tray~~ *container holding the emergency medications* shall be closed with a seal which may be broken when drugs are required in an emergency or for inspection; (III)

e. Any item removed from the ~~tray~~ *will emergency medications* shall be replaced within 48 hours; (III)

f. A permanent record shall be kept of each time the ~~tray~~ *is utilized emergency medications are used*; (III)

g. The ~~tray~~ *emergency medications* shall be inspected by a pharmacist at least once every three months to determine the stability of items ~~in the tray~~. (III)

ITEM 23. Amend subrule **58.21(14)**, paragraphs "b" and "g," as follows:

b. Medication containers having soiled, damaged, illegible or makeshift labels, *or medication samples* shall be returned to the issuing pharmacist, pharmacy, or physician for relabeling or disposal. (III)

g. Unused prescription drugs prescribed for residents who are deceased shall be ~~destroyed by a qualified nurse with a witness and notation made on the resident's record, or, if a unit dose system is used, such drugs shall be returned to the supplying pharmacist~~. (III)

ITEM 24. Amend subrule **58.21(14)**, paragraph "p," subparagraph (1), as follows:

(1) Establish a medication schedule system which identifies the time and dosage of each medication prescribed for each resident, *is based on the resident's desired routine, and is approved by the resident's physician*. (II, III)

ITEM 25. Amend subrule 58.24(1) as follows:

58.24(1) Organization of dietetic ~~service department~~ *services*. The facility shall meet the needs of the residents and provide the services listed in this standard. If the service is

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

contracted out, the contractor shall meet all the standards *same standard*. A written agreement shall be formulated between the facility and the contractor and shall convey to the department the right to inspect the food service facilities of the contractor. (III)

a. There shall be written policies and procedures for the ~~dietetic service department services~~ that include staffing, nutrition, menu planning, therapeutic diets, preparation, service, ordering, receiving, storage, sanitation, and hygiene of staff *hygiene*. The policies and procedures shall be kept in a notebook and made available for use in the ~~by dietetic service department services~~. (III)

b. There shall be written job descriptions for each position in the ~~dietetic service department services~~. The job descriptions shall be posted or kept in a notebook and made available for use in the ~~by dietetic service department services~~. (III)

ITEM 26. Amend subrule **58.24(2)**, paragraphs “b” and “d,” as follows:

b. The supervisor shall have overall supervisory responsibility for the ~~dietetic service department services~~ and shall be employed for a sufficient number of hours to complete management responsibilities that include:

(1) to (7) No change.

(8) Keeping records of repairs of equipment in the ~~dietetic service department services~~. (III)

d. The facility shall ~~not may~~ assign ~~simultaneous personnel~~ duties ~~simultaneously~~ in the kitchen and laundry, house-keeping, or nursing service ~~except in an emergency situation to appropriately trained personnel~~. If such a situation occurs, proper *Proper* sanitary and personal hygiene ~~procedure procedures~~ shall be followed as outlined under the rules pertaining to ~~hygiene of staff hygiene~~. (II, III)

ITEM 27. Amend subrule **58.24(2)**, paragraph “f,” subparagraph (2), as follows:

(2) Work with *residents and nursing* staff on resident care plans; (III)

ITEM 28. Amend subrule **58.24(2)**, paragraph “g,” as follows:

g. In facilities licensed for more than 15 beds, ~~food service personnel dietetic services~~ shall be on duty available for a minimum of a 12-hour span extending from the *time of* preparation of breakfast through supper. (III)

ITEM 29. Amend subrule 58.24(3) as follows:

58.24(3) Nutrition and menu planning.

a. Menus shall be planned and followed to meet the nutritional needs of each resident in accordance with the physician’s orders *and in consideration of the resident’s choices and preferences*. (II, III)

b. Menus shall be planned ~~and served to include foods and amounts necessary to meet the current Recommended Daily Dietary Allowances, 1989 edition, adopted by the Food and Nutrition Board of the National Research Council, National Academy of Sciences to provide 100 percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences. A current copy of the Simplified Diet Manual published by Blackwell Publishing, Ames, Iowa, shall be available and used in the planning and serving of all meals.~~ (II)

The food groups listed below and the food groups for menu planning in the 1998 edition of the Simplified Diet Manual, Iowa State University Press, Ames, Iowa, shall be used as a minimum for planning resident menus.

(1) Milk—two or more cups served as beverage or used in cooking;

(2) Meat group—two or more servings of meat, fish, poultry, eggs, cheese or equivalent; at least four to five ounces edible portion per day;

(3) Vegetable and fruit group—four or more servings (two cups). This shall include a citrus fruit or other fruit and vegetable important for vitamin C daily, a dark green or deep yellow vegetable for vitamin A at least every other day, and other fruits and vegetables, including potatoes;

(4) Bread and cereal group—four or more servings of whole grain, enriched or restored;

(5) Foods other than those listed shall be included to meet daily energy requirements (calories) to add to the total nutrients and variety of meals.

c. to f. No change.

g. A file of tested recipes adjusted to the number of people to be fed *served* in the facility shall be maintained. (III)

h. No change.

ITEM 30. Amend subrule **58.24(7)**, paragraphs “b” and “c,” as follows:

b. Residents shall ~~not may~~ be allowed in the food preparation area. (III)

c. The food preparation area shall ~~not may~~ be used as a dining area for residents, staff or food service personnel. (III)

ITEM 31. Amend subrule 58.24(8) as follows:

58.24(8) Hygiene of food service personnel.

a. Food service personnel *Personnel*, if involved in *dietetic services*, shall be trained in basic food sanitation techniques, shall be clean and wear clean clothing, including a cap or a hairnet sufficient to contain, cover and restrain hair. Beards, mustaches and sideburns that are not closely cropped and neatly trimmed shall be covered. (III)

b. Food service personnel *Personnel* shall be excluded from duty when affected by skin infections or communicable diseases in accordance with the facility’s infection control policies. (II, III)

c. and d. No change.

e. ~~Persons other than food service personnel shall not be allowed in the food preparation area unless required to do so in the performance of their duties.~~ (III)

f. e. The use of tobacco shall be prohibited in the *kitchen food preparation area*. (III)

ITEM 32. Amend subrule 58.29(6) as follows:

58.29(6) Electric heating pads, blankets, or sheets shall be used only on the written order of a physician, *when allowed by the Life Safety Code or applicable state or local fire regulations*. (II, III)

ITEM 33. Rescind and reserve subrule **58.31(15)**.

ITEM 34. Amend subrule **58.35(1)**, paragraph “f,” as follows:

f. All fans located within seven feet of the floor shall be protected by screen guards of not more than ~~one-fourth one-half~~ one-half-inch mesh. (III)

ITEM 35. Amend subrule **58.35(4)**, paragraphs “a,” “b” and “j,” as follows:

a. Each resident shall be provided with a standard, single, or twin bed, *that is* substantially constructed and in good repair. Rollaway beds, metal cots, or folding beds are not acceptable. Seventy-five percent of the beds shall have a spring with an adjustable head and foot section. *A resident shall have the right to sleep in a chair per the resident’s re-*

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

quest and to have the bed removed from the room to allow for additional space. (III)

b. Each bed shall be equipped with the following: casters or glides *unless a low bed and mattress are being used for fall precautions*; ~~clean springs in good repair~~; a clean, comfortable, well-constructed mattress approximately five inches thick and standard in size for the bed; clean, comfortable pillows of average size; and moisture-proof covers and sheets as necessary to keep the mattress and pillows dry and clean. (III)

1. Each room shall have sufficient accessible mirrors to serve ~~residents'~~ *the resident's* needs. *Mirrors are not required if the room is located in a CCDI unit and the mirrors cause concern for the resident.* (III)

ITEM 36. Amend rule 481—58.37(135C) as follows:

481—58.37(135C) Animals. ~~No animals shall be allowed. Animals may be permitted within the facility except with written approval of the department and under controlled conditions.~~ (III)

ITEM 37. Amend rule 481—58.55(135C) as follows:

481—58.55(135C) Another business or activity in a facility. A facility is allowed to have another business or activity in a health care facility or in the same physical structure of the facility, if the other business or activity is ~~under the control of and is directly related to and incidental to the operation of the health care facility, or the business or activity is approved by the department and the state fire marshal meets the requirements of applicable state and federal laws, administrative rules, and federal regulations.~~

To obtain the approval of the department and the state fire marshal, the facility must submit to the department a written request for approval which identifies the service(s) to be offered by the business and addresses the factors outlined in paragraphs “a” through “j” of ~~this rule~~ *subrule 58.55(1)*. (I, II, III)

58.55(1) The following factors will be considered by the department in determining whether a business or activity will interfere with the use of the facility by residents, interfere with services provided to residents, or be disturbing to residents:

- a. Health and safety risks for residents;
 - ~~b. Compatibility of the proposed business or activity with the facility program;~~
 - ~~c. Noise created by the proposed business or activity;~~
 - ~~d. Odors created by the proposed business or activity;~~
 - ~~e. Use of entrances and exits for the business or activity in regard to safety and disturbance of residents and interference with delivery of services;~~
 - ~~f. Use of the facility's corridors or rooms as thoroughfares to the business or activity in regard to safety and disturbance of residents and interference with delivery of services;~~
 - ~~g. Proposed staffing for the business or activity; and~~
 - ~~h. Sharing of services and staff between the proposed business or activity and the facility;~~
 - ~~i. Facility layout and design; and~~
 - ~~j. Parking area utilized by the business or activity.~~
- 58.55(2) and 58.55(3)** No change.

ITEM 38. Amend subrule 61.3(1) as follows:

61.3(1) This chapter covers both new and existing construction, *except as noted in paragraphs “a” through “f” below*. In various sections of the rules, specific provisions for existing structures which differ from those for new construc-

tion are indicated by a notation at the end of the rule as follows:

a. to e. No change.

f. *(Exception 6): Rule does not pertain to facilities built or renovated according to plans approved by the department and designated as a person directed care environment.*

ITEM 39. Rescind and reserve subrule **61.3(6)**.

ITEM 40. Amend subrule 61.4(2) as follows:

61.4(2) Minimum exit corridor widths shall be 8 feet ~~except that corridors in new construction and not less than 4 feet for renovated facilities or as approved by the department.~~ Corridors in adjunct areas not intended for the housing of or use by residents may be a minimum of 6 feet in width. (III) Handrails may project into corridors.

ITEM 41. Amend subrule 61.4(17) as follows:

61.4(17) All fans located within 7 feet of the floor shall be approved by Underwriters' Laboratories Inc. (UL) and shall have a guard with no greater than $\frac{1}{4}$ - $\frac{1}{2}$ -inch spacing in one direction. (III)

ITEM 42. Amend subrule **61.4(18)**, paragraph “d,” as follows:

d. Ceilings shall be acoustically treated in ~~nurses' stations,~~ nursing areas, day rooms, dining rooms, recreation areas, waiting areas and corridors in resident areas. (III)

ITEM 43. Amend subrule 61.5(1) as follows:

61.5(1) A nursing care unit shall ~~not contain more than 60 beds.~~ *It shall have include or have access to the following rooms or areas:* (III)

- a. Nurses' station space,
- b. Clean ~~workroom~~ work area,
- c. Medication ~~room~~ storage,
- d. Resident rooms,
- e. Resident toilets ~~or~~ and baths,
- f. Soiled ~~workroom~~ work area, and
- g. Enclosed clean linen storage.

ITEM 44. Amend subrule 61.5(2) as follows:

61.5(2) ~~A nurses' station shall be centrally located in the resident area and shall have a well-lighted work area for charting and storage for records and supplies. There shall be a secure place or method for storing resident information and supplies.~~ (III)

ITEM 45. Amend subrule 61.5(3) as follows:

61.5(3) A clean ~~workroom~~ work area for storage and assembly of clean supplies shall contain a work counter and sink. (III)

ITEM 46. Amend subrule 61.5(4) as follows:

61.5(4) ~~A lockable medication room shall be provided adjacent to the nurses' station. It shall have a work counter, sink, refrigerator, locked storage and facilities for preparation of medication. Both the counter and cabinet shall be well-lighted. Lockable medication storage including the storage of Schedule II drugs shall be provided.~~ (III)

ITEM 47. Rescind and reserve subrules **61.5(5)** and **61.5(6)**.

ITEM 48. Amend subrule 61.5(7) as follows:

61.5(7) Resident rooms shall meet at least the following requirements:

a. Bedrooms shall open directly into a corridor or common living area. ~~Bedrooms and~~ shall not be used as a thoroughfare. (III)

b. to h. No change.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

i. ~~Rooms in which beds are erected shall be used only as bedrooms. (III)~~

j. ~~i. Each resident bedroom shall have a door. The door shall be the swing type and shall swing in, unless fully recessed. (III)~~

k. ~~Resident rooms shall be designed to permit no more than two beds which shall be in a side-by-side or toe-to-toe arrangement or other arrangement approved by the department. (III) (Exception 4)~~

l. ~~Each resident bedroom shall be designed so the head of the bed is not in front of a window, a heat register, or radiator. (III)~~

m. ~~One lavatory shall be provided in each resident room. The lavatory may be omitted from a room when a lavatory is located in a connecting toilet room, which serves not more than two beds. (III) (Exception 4)~~

n. ~~Full visual privacy for each resident shall be provided in multibed rooms. Portable screens are not acceptable. (III)~~

o. ~~A nurses' call system shall be provided in accordance with subrule 61.12(9). (II)~~

p. ~~Each resident shall have access to a toilet room without having to enter the general corridor area. One toilet room shall serve no more than four beds and no more than two rooms. (III) (Exception 3)~~

q. ~~No resident room shall be located more than 120 150 feet from an exit the nurses' station, the clean workroom, and the soiled workroom. Exception: In facilities which use a toe-to-toe bed arrangement, this distance may be increased to 140 feet with approval from the department. (III) (Exception 2)~~

ITEM 49. Amend subrule 61.5(9) as follows:

61.5(9) *Each facility must provide bathing systems that meet the needs of the residents. Central bathing Bathing facilities shall be provided according to the following standards:*

a. There shall be at least one bathing unit for each wing on each floor of a facility with a minimum of one unit for each 20 residents or part of 20. In facilities licensed for 15 or fewer beds, at least one bathing unit shall be provided for each five residents. (III)

b. Every central bathing unit shall have a toilet and sink which are accessible to and functional for persons with physical handicaps disabilities. (III) (Exception 2)

c. Privacy for dressing and bathing shall be provided in central bathrooms. (III)

d. All bathrooms shall have mechanical ventilation. (III) (Exception 2) See subrule 61.11(3), paragraph "c."

e. Showers in central bathing facilities shall be at least 4 feet by 5 feet without curbs, and designed to permit use from a wheelchair. All tubs and shower floors shall have slip-resistant surfaces. (III) (Exception 4)

f. Central bathing Bathing areas shall have a swinging door which swings into the area. (III)

g. to k. No change.

l. ~~Each facility must provide no less than one institutional system for bathing the handicapped. (III) (Exception 2)~~

m. ~~Showers shall be equipped with a shower head on the end of a flexible hose. (III) (Exception 2)~~

n. ~~In facilities where the total occupancy of family, employees, and residents is more than five, separate bathing and toilet facilities shall be required for the family or employees distinct from such areas provided for residents. (III)~~

ITEM 50. Amend subrule 61.5(10) as follows:

61.5(10) The soiled workroom work area shall contain a clinical flush-rim service sink, a work counter, waste and soiled linen receptacles and a two-compartment sink. One compartment of the double sink shall be at least 4 10 inches deep for cleaning and sanitizing equipment such as bedpans, urinals and wash basins. Clinical flush-rim service sinks shall have an integral trap in which the upper portion of the water surface shall provide a visible trap seal provides a water surface. (III) (Exception 3)

ITEM 51. Amend subrule 61.5(11) as follows:

61.5(11) Enclosed clean linen storage shall be separate from the clean workroom work area. (III) (Exception 4)

ITEM 52. Amend rule 481—61.6(135C) as follows:

481—61.6(135C) Support Facility support area.

61.6(1) ~~A support area Each facility shall contain include or provide for the following:~~

a. ~~Multipurpose room Living area,~~

b. ~~Dining room area,~~

c. ~~Personal care room area,~~

d. ~~Equipment storage room area,~~

e. ~~Examination and treatment room,~~

f. ~~Physical therapy room Therapy area, and~~

g. ~~Isolation room An isolation area or method for isolating a resident, if necessary.~~

The size of a facility support area shall depend upon the number of licensed beds. (III)

61.6(2) to 61.6(4) No change.

61.6(5) ~~A Access to a personal care room area with barber and beauty shop facilities shall be provided. (III) (Exception 4)~~

61.6(6) ~~An equipment storage room area shall be available for each nursing unit for immediate storage of walkers, wheelchairs, bed rails, intravenous stands, inhalators, air mattresses and similar bulky equipment. The area of the storage room may be used in calculating the total general storage area required in subrule 61.7(9). This space may be located in an area other than that designated for general storage. (III)~~

61.6(7) No change.

61.6(8) ~~A room for examination and treatment of residents shall be provided. This room shall have a minimum floor area of 120 square feet. The minimum room dimension shall be 10 feet. The room shall contain a lavatory or sink, storage facility, work counter and space for a treatment table. (III)~~

61.6(9) ~~A physical therapy area shall contain a lavatory or sink, a full-length mirror, storage facility, a work counter, space for the appropriate equipment and have a minimum floor area of 180 square feet. This room may be combined with the examination and treatment room, as required by subrule 61.6(8), if the floor area is no less than 225 square feet. (III) (Exception 3)~~

61.6(10) ~~At least one single-bed room with a private toilet shall be provided for isolation. The bed in the isolation room shall be counted in the total licensed bed capacity of the facility. Plans and methods for the isolation of residents, if necessary, shall be provided. (III)~~

ITEM 53. Amend subrule 61.7(2) as follows:

61.7(2) The construction and installation of equipment of the dietetic service area shall comply with, or exceed, the minimum standards set forth in the "Food Service Sanitation Manual" Department of Health Education and Welfare (DHEW) Publication No. (FDA) 78-2081, 1976 Edition 1999 Food Code, U.S. Public Health Service, Food and Drug Administration, Washington, DC 20204. (III) (Exception 4)

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

a. and b. No change.

c. The dishwashing area shall have mechanical dishwashing equipment designed to handle racks that are coordinated with mobile dish storage equipment. (III) Either conventional or chemical dishwashing equipment may be used.

(1) No change.

(2) A three-compartment pot and pan sink shall be provided for soaking and washing utensils. It must be large enough for sanitizing all sizes of utensils used and must provide easy access to the dishwasher. (III) (Exception 1) (*Exception 6*)

(3) No change.

d. The dietetic service area shall be designed to separate clean and dirty areas in accordance with the "Food Service Sanitation Manual" DHEW Publication No. FDA 78-2081, 1976 Edition 1999 Food Code, U.S. Public Health Service, Food and Drug Administration, Washington, DC 20204. (III)

e. to k. No change.

l. There shall be an outside service entrance to the food service area which does not open directly into the food preparation area. (III) (*Exception 6*)

m. The food service area shall be at least 10 square feet per resident bed. Variances to this rule may be granted on the basis of equipment and serving methods used. (III) (Exception 4) (*Exception 6*)

n. and o. No change.

ITEM 54. Amend rule 481—61.8(135C) as follows:

481—61.8(135C) Administration and staff area. An administration and staff area shall contain *space* for the fol-

lowing rooms or areas:

1. Administrator's office area;
2. Business office area;
3. Social service office area; (Exception 4)
4. Storage space for office equipment and supplies; (Exception 3)
5. Conference or training room area; (Exception 3)
6. Staff lounge;
7. Staff toilet room with lavatory and water closet;
8. Activity director's office area; (Exception 4)
9. Director of nurses' office area; (Exception 2)
10. Food service supervisor's office area; (Exception 4)
11. Reception and information counter or desk, which may be combined in the business office area; and
12. An area for the safekeeping of coats and personal effects of staff. (III)

The size and location of an administration and staff area shall depend upon the number of licensed beds within the nursing unit. (*Exception 6*)

In facilities of 15 or fewer beds, an office shall be provided which may substitute for a nurses' station, administrator's office and business office. This area shall contain work space for charting and records and medication storage. (III)

ITEM 55. Amend rule 481—61.9(135C), introductory paragraph, as follows:

481—61.9(135C) Public area. In each facility there shall be an entry area equipped with a coatrack and a shelf. (III)

ITEM 56. Amend **481—Chapter 61, Table 2**, as follows:

Table 2
PRESSURE RELATIONSHIPS AND VENTILATION OF CERTAIN AREAS OF NURSING FACILITIES

Area Design	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Per Hour Supplied to Room	Minimum Total Air Changes Per Hour Supplied to Room	All Air Exhausted Directly to Outdoors
Resident Room	E	2	2	Opt. (#1)
Resident Area Corridor	E	2	2	Opt. (#3)
Examination and Treatment Room	N	2	6	Opt. (#1)
Physical Therapy	N	2	6	Opt. (#1)
Soiled Workroom Work Area or Soiled Holding	N	2	10	Yes
Toilet Room	N	Opt. (#1)	10	Yes
Bathroom	N	Opt. (#3)	10	Yes
Housekeeping Closet	N	Opt. (#3)	10	Yes
Food Preparation Center Area	E	2	10	Yes
Warewashing Room	N	Opt. (#2)	10	Yes
Laundry, General	E	2	10	Opt. (#4)
Soiled Linen Sorting and Storage Area	N	Opt. (#4)	10	Yes
Employees' Lounge	N	2	6	Yes
Lounge	N (#5)	2	6	Yes (#5)
* Designated Smoking Areas	N	2	6	Yes

P = Positive

N = Negative

E = Equal

Opt. = Optional

#1 Room may be exhausted through adjoining toilet room.

#2 Make-up air may be supplied through the kitchen.

#3 Corridor may be exhausted through adjoining service rooms areas.

#4 Laundry may be exhausted through the soiled area.

#5 Pressure relationships in lounges are subject to Exception 4.

* Exception 4

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

ITEM 57. Amend subrule **61.11(4)**, paragraph “c,” subparagraph (9), as follows:

(9) No plastic pipe shall be used in any hot or cold water system in a licensed health facility. (III) (Exception 4) (*Exception 6*)

ITEM 58. Amend subrule **61.12(9)**, paragraphs “b” and “g,” as follows:

b. All calls shall register at the nurses’ station, soiled and clean workrooms, and shall activate an audible and visible signal in each area. There shall be a visible signal in the corridor public area at the resident’s door. (II, III) (Exception 4)

g. As an alternative to a hardwired nurse calling station with a visible signal in the corridor at a resident’s room, a wireless calling system that provides an acceptable means of identifying the origin or location of a call is acceptable, if the system specifications are first reviewed and approved by the department prior to installation.

ITEM 59. Amend subrule **61.12(10)**, paragraph “d,” subparagraph (4), as follows:

(4) Nurses’ station work area: (III)

ITEM 60. Amend subrule **61.12(10)**, paragraph “e,” subparagraph (5), as follows:

(5) All required duplex receptacles in resident corridors areas; (III)

ITEM 61. Amend subrule 61.13(5) as follows:

61.13(5) A private area shall be provided to allow nurses to prepare daily resident reports. (III)

ARC 5430B

INSPECTIONS AND APPEALS
DEPARTMENT[481]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby gives Notice of Intended Action to amend Chapter 58, “Nursing Facilities,” Chapter 64, “Intermediate Care Facilities for the Mentally Retarded,” and Chapter 65, “Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI),” Iowa Administrative Code.

The proposed amendments implement changes made in the admission procedures for certain long-term care facilities as required by 2006 Iowa Acts, House File 2363. The proposed amendments remove the requirement that long-term care facilities receiving reimbursement through the Medicaid program submit to the Iowa Department of Veterans Affairs the names of all new residents for the purpose of identifying residents’ eligibility or potential eligibility for benefits through the United States Department of Veterans Affairs. The proposed amendments stipulate that long-term care facilities need only submit the names of those residents identified as potential veterans along with the names of their spouses and any dependent children.

The proposed amendments were presented to the State Board of Health for initial review at the Board’s September 13, 2006, meeting.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 31, 2006. Such written materials should be addressed to the Director, Department of Inspections and Appeals, Lucas State Office Building, Des Moines, Iowa 50319-0083; or faxed to (515)242-6863. E-mail may be sent to david.werning@dia.state.ia.us.

These amendments are intended to implement 2006 Iowa Acts, House File 2363.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are proposed.

ITEM 1. Amend subrule **58.12(1)**, paragraph “1,” as follows:

1. ~~For all residents residing in~~ *Within 30 days of a resident’s admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A on July 1, 2003, and all others subsequently admitted, the facility shall collect and report information regarding the resident’s eligibility or potential eligibility for benefits through the federal Department of Veterans Affairs as requested by the Iowa commission on veterans affairs. The facility shall collect and report the information on forms and by the procedures prescribed by the Iowa commission on veterans affairs. ask the resident or the resident’s personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a veteran, the facility shall report the resident’s name along with the names of the resident’s spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services. In the event that a resident is unable to assist the facility in obtaining the information, the facility shall seek the requested information from the resident’s family members or responsible party.*

For all new admissions, the facility shall collect and report the required information regarding the resident’s eligibility or potential eligibility to the Iowa commission on veterans affairs within 30 days of the resident’s admission. For residents residing in the facility as of July 1, 2003, and prior to May 5, 2004, the facility shall collect and report the required information regarding the resident’s eligibility or potential eligibility to the Iowa commission on veterans affairs within 90 days after May 5, 2004.

If a resident is eligible for benefits through the federal United States Department of Veterans Affairs or other third-party payor, the facility *first* shall seek reimbursement from such benefits to the maximum extent available *the identified payor source* before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care or to the admission of an individual to the Iowa Veterans Home. (II, III)

ITEM 2. Amend rule 481—64.6(135C) as follows:

481—64.6(135C) Veteran eligibility.

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

64.6(1) For all residents residing in *Within 30 days of a resident's admission* to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A on July 1, 2003, and all others subsequently admitted, the facility shall collect and report information regarding the resident's eligibility or potential eligibility for benefits through the federal Department of Veterans Affairs as requested by the Iowa commission on veterans affairs. The facility shall collect and report the information on forms and by the procedures prescribed by the Iowa commission on veterans affairs. *ask the resident or the resident's personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a veteran, the facility shall report the resident's name along with the names of the resident's spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs.* Where appropriate, the facility may also report such information to the Iowa department of human services. *In the event that a resident is unable to assist the facility in obtaining the information, the facility shall seek the requested information from the resident's family members or responsible party.*

64.6(2) For all new admissions, the facility shall collect and report the required information regarding a resident's eligibility or potential eligibility to the Iowa commission on veterans affairs within 30 days of the resident's admission. For residents residing in the facility as of July 1, 2003, and prior to May 5, 2004, the facility shall collect and report the required information regarding the resident's eligibility or potential eligibility to the Iowa commission on veterans affairs within 90 days after May 5, 2004.

64.6(3 2) If a resident is eligible for benefits through the federal *United States* Department of Veterans Affairs or other third-party payor, the facility *first* shall seek reimbursement from such benefits to the maximum extent available *the identified payor source* before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

64.6(4 3) The provisions of this rule shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care. (II, III)

ITEM 3. Amend rule **481—65.10(135C)** as follows:

1. to 9. No change.

10. ~~For all residents residing in Within 30 days of a resident's admission to a health care facility receiving reimbursement through the medical assistance program under Iowa Code chapter 249A on July 1, 2003, and all others subsequently admitted, the facility shall collect and report information regarding the resident's eligibility or potential eligibility for benefits through the federal Department of Veterans Affairs as requested by the Iowa commission on veterans affairs. The facility shall collect and report the information on forms and by the procedures prescribed by the Iowa commission on veterans affairs. ask the resident or the resident's personal representative whether the resident is a veteran and shall document the response. If the facility determines that the resident is a veteran, the facility shall report the resident's name along with the names of the resident's spouse and any dependent children, as well as the name of the contact person for this information, to the Iowa department of veterans affairs. Where appropriate, the facility may also report such information to the Iowa department of human services. In the event that a resident is unable to assist the facility in obtaining the information, the facility shall seek the requested~~

~~information from the resident's family members or responsible party.~~

~~For all new admissions, the facility shall collect and report the required information regarding the resident's eligibility or potential eligibility to the Iowa commission on veterans affairs within 30 days of the resident's admission. For residents residing in the facility as of July 1, 2003, and prior to May 5, 2004, the facility shall collect and report the required information regarding the resident's eligibility or potential eligibility to the Iowa commission on veterans affairs within 90 days after May 5, 2004.~~

If a resident is eligible for benefits through the federal *United States* Department of Veterans Affairs or other third-party payor, the facility *first* shall seek reimbursement from such benefits to the maximum extent available *the identified payor source* before seeking reimbursement from the medical assistance program established under Iowa Code chapter 249A.

The provisions of this paragraph shall not apply to the admission of an individual as a resident to a state mental health institute for acute psychiatric care. (II, III)

This rule is intended to implement Iowa Code sections 135C.3 and 135C.23.

ARC 5425B**PUBLIC SAFETY
DEPARTMENT[661]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 100C.7, the Fire Marshal hereby gives Notice of Intended Action to amend Chapter 275, “Certification of Automatic Fire Extinguishing System Contractors,” Iowa Administrative Code.

Iowa Code chapter 100C provides for the certification of automatic fire extinguishing system contractors by the State Fire Marshal. After an extensive rule development process, the Fire Marshal recently adopted rules for the program which became effective July 1, 2006. The rules provide a transition period and require that contractors achieve certification by October 1, 2006.

One of the categories of certification is for contractors who install only preengineered dry chemical and wet agent systems. In the rules which became effective on July 1, 2006, provisional certification in this category requires that the contractor's responsible managing employee has received training from the manufacturer of a system which the contractor installs. The Fire Marshal has received comments from several contractors who have stated that it is impractical to receive the training and to provide the documentation by October 1, 2006. Consequently, the Fire Marshal, acting on a recommendation from members of the Fire Extinguishing System Contractors Advisory Board, has decided to allow contractors who are provisionally certified to work only on dry chemical and wet agent extinguishing systems until April 1, 2007, to provide the required documentation of training required by a manufacturer or, alternatively, to provide documentation of training which has been provided by a third

PUBLIC SAFETY DEPARTMENT[661](cont'd)

party and has been approved by the Fire Marshal. This provision does not extend the deadline for obtaining certification from the Fire Marshal. Anyone acting as a fire extinguishing system contractor on or after October 1, 2006, will still be required to apply for and receive certification from the Fire Marshal in order to operate in Iowa.

In addition to extending the time to provide documentation of required training for provisionally certified contractors working only on preengineered dry chemical and wet agent extinguishing systems, these proposed amendments also correct two addresses of Web sites referenced in the rules.

A public hearing on these proposed amendments will be held on November 2, 2006, at 10 a.m. in the Fire Marshal Division Conference Room, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50319. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Wallace State Office Building, Des Moines, Iowa 50319, by mail, by telephone at (515)281-5524, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on November 2, 2006, or submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office by 4:30 p.m. on November 2, 2006.

These amendments have also been Adopted and Filed Emergency and became effective on October 1, 2006. The emergency rule making is published herein as **ARC 5426B**.

These amendments are intended to implement Iowa Code chapter 100C.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

ARC 5447B**RECORDS COMMISSION[671]****Notice of Intended Action**

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 305.8, the State Records Commission hereby gives Notice of Intended Action to amend Chapter 1, "Organization and Responsibilities," Iowa Administrative Code.

The proposed amendment clarifies definitions to be applied as state agencies implement their duties and responsibilities for management of government records.

Public comments concerning the proposed amendment will be accepted until 4:30 p.m. on October 31, 2006. Interested persons may submit written or oral comments by contacting Kathy Gourley, Department of Cultural Affairs, Historical Building, 600 East Locust Street, Des Moines, Iowa 50319-0290; fax (515)282-0502; E-mail kathy.gourley@iowa.gov. Persons who wish to convey their views orally should contact the State Records Commission at (515) 281-6913.

Also, there will be a public hearing on October 31, 2006, at 10 a.m. at the above address in the Tone Board Room, Third Floor West, at which time persons may present their views either orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject of the rules.

Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the State Records Commission and advise of specific needs.

This amendment is intended to implement Iowa Code chapter 305.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is proposed.

Amend rule 671—1.2(305) as follows:

671—1.2(305) Definitions. The definitions that apply to 671—Chapters 1 to 8 and 14 shall be as *follows and as set forth in Iowa Code Supplement section 305.2*, unless otherwise specified.

"Non-record materials" means documents and informational materials that do not meet the statutory definition of a record (Iowa Code section 305.2(9)) or that are excluded from the definition. Non-record materials include library and museum material made or acquired and preserved solely for reference or exhibition purposes, stocks of publications and unprocessed forms, and extra copies of documents made, acquired or received only for convenience or reference purposes.

"Office of record" means the agency in which a record, as defined in Iowa Code section 305.2, is created, produced, executed or received in connection with official business of that agency. The office of record is responsible for maintenance and disposition of records in accordance with approved records series retention and disposition schedules.

"Record" means a document, book, paper, electronic record, photograph, sound recording, or other material, regardless of physical form or characteristics, made, produced, executed, or received pursuant to law in connection with the transaction of official business of state government.

"Reference copy" is a copy of a record kept for easy access to the information the record contains. A reference copy of a record may be distributed to make recipients aware of the content of the record but not to direct the recipient to take action on a matter.

NOTICE—USURY

In accordance with the provisions of Iowa Code section 535.2, subsection 3, paragraph “a,” the Superintendent of Banking has determined that the maximum lawful rate of interest shall be:

October 1, 2005 — October 31, 2005	6.00%
November 1, 2005 — November 30, 2005	6.25%
December 1, 2005 — December 31, 2005	6.50%
January 1, 2006 — January 31, 2006	6.50%
February 1, 2006 — February 28, 2006	6.50%
March 1, 2006 — March 31, 2006	6.50%
April 1, 2006 — April 30, 2006	6.50%
May 1, 2006 — May 31, 2006	6.75%
June 1, 2006 — June 30, 2006	7.00%
July 1, 2006 — July 31, 2006	7.00%
August 1, 2006 — August 31, 2006	7.25%
September 1, 2006 — September 30, 2006	7.00%
October 1, 2006 — October 31, 2006	7.00%

ARC 5423B

UTILITIES DIVISION[199]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to Iowa Code sections 17A.4, 476.1, 476.2, and 476.103, the Utilities Board (Board) gives notice that on September 15, 2006, the Board issued an order in Docket No. RMU-06-8, In re: Revisions to Rules Prohibiting Unauthorized Changes in Telecommunications Service [199 IAC 22], “Order Commencing Rule Making.”

The proposed amendment adds a provision to current rules prohibiting unauthorized changes in telecommunications service to specify what types of call records submitted by a telecommunications carrier may be adequate to verify a customer’s request for certain changes in service that result in additional charges to a customer’s account. The order commencing rule making contains a more thorough discussion of the background and reasons for this proposed rule making.

The order is available on the Board’s Web site at www.state.ia.us/iub.

Pursuant to Iowa Code section 17A.4(1)“a” and “b,” any interested person may file a written statement of position pertaining to the proposed amendments. The statement must be filed on or before October 31, 2006, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should clearly state the author’s name and address and should make specific reference to this docket. All communications should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

A public hearing to present oral comments on the proposed amendments will be held at 10 a.m. on November 21, 2006, in the Board’s hearing room at the address listed above. Persons with disabilities who require assistive services or devices to observe or participate should contact the Utilities Board at (515)281-5256 in advance of the scheduled date to request that appropriate arrangements be made.

This amendment is intended to implement Iowa Code sections 17A.4, 476.1, 476.2, and 476.103.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is proposed.

Amend subparagraph **22.23(2)“a”(5)** as follows:

(5) For other changes in service resulting in additional charges to existing accounts only, a service provider shall establish a valid customer request for the change in service through maintenance of sufficient internal records. At a minimum, any such internal records must include the date and time of the customer’s request and adequate verification under the circumstances of the identification of the person requesting the change in service. Any of the three verification methods in 22.23(2)“a”(1) to (3) will also be acceptable. The burden will be on the telecommunications carrier to show that its internal records are adequate to verify the customer’s request for the change in service. *Where the additional charge is for one or more specific telephone calls, a carrier may shift this burden by submitting internal records showing the origin, date, time, destination, and duration of the calls, and any other data the carrier relies on to show the calls were made or accepted by the customer, along with an explanation of the records and data. The burden will then be on any party contesting the carrier’s call records to establish that the calls were unauthorized.*

ARC 5413B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 65, "Food Assistance Program Administration," Iowa Administrative Code.

This amendment provides that applicants for Food Assistance will be able to apply over the Internet using an electronic application. This method of applying will be faster and more convenient than obtaining and completing a paper application form and bringing or mailing it to the Department's local office.

The electronic application will be available on the Department's Web site. An applicant may complete the application on line and submit it to the Department over the Internet. The applicant will be able to save a partially completed electronic application to work on and submit later and will be able to print out a summary of the information submitted on the form. Submitted applications will be assigned to the local office serving the applicant's residence. Some of the data entered in the electronic application will automatically flow into the Department's eligibility determination system; other data will need to be verified by the local office before it is entered in the system.

This amendment does not provide for waivers in specified situations. This amendment merely adds another option for people to use when applying for Food Assistance. The Department believes that making it easier to apply will encourage more people to participate in Food Assistance. Increasing Food Assistance participation is one of goals in the Department's strategic plan.

This amendment was originally published under Notice of Intended Action in the Iowa Administrative Bulletin on October 27, 2004, as **ARC 3760B**. No comments were received at that time, but Notice was terminated because the Department was not able to marshal the information technology resources to complete the project before the Notice expired.

The Council on Human Services adopted this amendment September 13, 2006.

The Department finds that notice and public participation are unnecessary, due to the previously published Notice and the fact that these are essentially technical changes that do not impose any new requirements on Food Assistance applicants. Notice and public participation are also contrary to the public interest, in that a second notice period would delay the availability of the benefits of the amendment. Therefore, this amendment is filed pursuant to Iowa Code section 17A.4(2).

The Department finds that this amendment confers a benefit by giving people another method to apply for Food Assistance. Therefore, this amendment is filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of this amendment is waived.

This amendment is intended to implement Iowa Code section 234.12.

This amendment became effective October 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendment is adopted.

Amend subrule 65.2(1) as follows:

65.2(1) Application filing. Persons in need of food assistance benefits may file an application at any local department office in Iowa *or over the Internet*.

a. An application is filed the day a local department office receives an application for food assistance benefits on Form 470-0306 or 470-0307 (Spanish), Application for Food Assistance, or Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application, containing that contains the applicant's name and address, which and is signed by either a responsible member of the household or the household's authorized representative. *The application may be filed on:*

(1) Form 470-0306 or 470-0307 (Spanish), Application for Food Assistance;

(2) Form 470-0462 or Form 470-0466 (Spanish), Health and Financial Support Application; or

(3) Form 470-4080 or 470-4080(S), Electronic Food Assistance Application.

b. When an application is delivered to a closed office, it will be considered received on the first day that is not a weekend or state holiday following the day that the office was last open. *An electronic application is considered received on the first department workday following the date the department office received the application.*

c. No change.

d. The application is complete when a completed Form 470-0306, 470-0307, 470-0462, or 470-0466 application form is submitted.

e. No change.

[Filed Emergency 9/14/06, effective 10/1/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5417B

HUMAN SERVICES
DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 249A.4 and 2006 Iowa Acts, House File 2734, section 1, the Department of Human Services amends Chapter 77, "Conditions of Participation for Providers of Medical and Remedial Care," Chapter 78, "Amount, Duration and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," and Chapter 83, "Medicaid Waiver Services," Iowa Administrative Code.

These amendments add case management as a covered service under the Medicaid home- and community-based services elderly waiver. Area agencies on aging have been providing case management services for elderly waiver service without Medicaid funding. The General Assembly directed the Department, in collaboration with the Department of Elder Affairs, to submit an amendment to the elderly waiver to include case management as a Medicaid-covered waiver service. The waiver amendment has been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

Under these amendments, case management provided for consumers under the elderly waiver will be eligible for

HUMAN SERVICES DEPARTMENT[441](cont'd)

federal financial participation under the Medicaid program. Funding for the case management services formerly provided through the area agencies on aging is being transferred to the Medicaid appropriation to be used for the nonfederal matching funds. The maximum monthly cost per client for case management under the elderly waiver is set at \$70. Area agencies on aging will continue to provide case management services for frail elders who are not eligible for Medicaid.

This change may provide elderly waiver consumers with additional choices for case management. Other case management entities, such as the Department of Public Health and County Case Management Services, have voiced interest in providing case management services under the elderly waiver.

These amendments do not provide for waivers in specified situations because the changes are mandated by 2005 Iowa Acts, chapter 167, section 14, and because the changes provide a benefit. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments September 13, 2006.

The Department finds that notice and public participation are unnecessary because these changes are mandated by 2005 Iowa Acts, chapter 167, section 14. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(1), that the normal effective date of these amendments should be waived, as authorized by 2005 Iowa Acts, chapter 167, section 66, subsection 7. The Department also finds that these amendments confer a benefit by enabling federal funding for case management provided to consumers under the elderly waiver. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)“b”(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 5414B** to allow for public comment.

These amendments are intended to implement Iowa Code section 249A.4; 2005 Iowa Acts, chapter 167, section 14; and 2006 Iowa Acts, House File 2734, section 1.

These amendments became effective October 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule 441—77.33(249A) by adding the following **new** subrule:

77.33(21) Case management providers. A case management provider organization is eligible to participate in the Medicaid HCBS elderly waiver program if the organization meets the following standards:

a. The case management provider organization shall be an agency or individual that:

(1) Is accredited by the mental health, mental retardation, developmental disabilities, and brain injury commission as meeting the standards for case management services in 441—Chapter 24; or

(2) Is accredited through the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) to provide case management; or

(3) Is accredited through the Council on Accreditation of Rehabilitation Facilities (CARF) to provide case management; or

(4) Is accredited through the Council on Quality and Leadership in Supports for People with Disabilities (The Council) to provide case management; or

(5) Is approved by the department of elder affairs as meeting the standards for case management services in 321—Chapter 21; or

(6) Is approved by the department of public health as meeting the standards for case management services in 641—Chapter 80.

b. A case management provider shall not provide direct services to the consumer. The department and the Centers for Medicare and Medicaid Services deem the provision of direct services to case management consumers to be a conflict of interest. The provider must have written conflict of interest policies that include, but are not limited to:

(1) Specific procedures to identify conflicts of interest.

(2) Procedures to eliminate any conflict of interest that is identified.

(3) Procedures for handling complaints of conflict of interest, including written documentation.

c. If the case management provider organization subcontracts case management services to another entity:

(1) That entity must also meet the provider qualifications in this subrule; and

(2) The contractor is responsible for verification of compliance.

ITEM 2. Amend rule 441—78.37(249A) as follows:

Amend subrule 78.37(10) as follows:

78.37(10) Mental health outreach. Mental health outreach services are services provided in a recipient's home to identify, evaluate, and provide treatment and psychosocial support. The services can only be provided on the basis of a referral from the ~~Case Management Program for the Frail Elderly (CMPFE)~~ consumer's interdisciplinary team established pursuant to 441—subrule 83.22(2). A unit of service is 15 minutes.

Adopt the following **new** subrule:

78.37(17) Case management services. Case management services are services that assist a consumer in gaining access to medical, social, and other appropriate services needed for the consumer to remain in the consumer's home. Case management is provided at the direction of the consumer and the interdisciplinary team established pursuant to 441—subrule 83.22(2).

a. Case management services shall include:

(1) A comprehensive assessment of the consumer's needs, which must be made within 30 days of referral to case management.

(2) Development and implementation of a service plan to meet those needs.

(3) Coordination, authorization, and monitoring of all services.

(4) A face-to-face meeting by the case manager with the consumer at least quarterly.

(5) Monitoring of the consumer's health, safety, and welfare.

(6) Evaluation of outcomes.

(7) Periodic reassessment and revision of the service plan as needed but at least annually.

(8) Assurance that consumers have a choice of providers.

b. Case management shall not include the provision of direct services by the case managers.

HUMAN SERVICES DEPARTMENT[441](cont'd)

c. Payment for case management shall not be made until the consumer is enrolled in the waiver. Payment shall be made only for case management activity performed on behalf of the consumer during a month when the consumer is enrolled.

d. A unit of service is one month.

ITEM 3. Amend subrule **79.1(2)**, numbered paragraph “**17**” under the service category “HCBS waiver services providers,” as follows:

<u>Provider category</u>	<u>Basis of reimbursement</u>	<u>Upper limit</u>
17. Case management	Fee schedule	For brain injury waiver: \$592.75 per month. For elderly waiver: \$70 per month.

ITEM 4. Amend rule **441—83.21(249A)** by rescinding the definitions of “project coordinator” and “senior living coordinating unit designated case management project for frail elderly.”

ITEM 5. Amend rule **441—83.22(249A)** as follows:

Rescind and reserve paragraph **83.22(1)“f.”**

Rescind subrule **83.22(2)** and adopt the following **new** subrule in lieu thereof:

83.22(2) Need for services, service plan, and cost.

a. Case management. As a condition of eligibility, all consumers under the elderly waiver shall receive case management services from a provider qualified pursuant to **441—subrule 77.33(21)**. The case manager shall be responsible for doing the following:

- (1) Making a comprehensive assessment of the consumer's needs within 30 days of referral to case management.
- (2) Initiating development and review of the service plan as required by this subrule.
- (3) Ensuring that the consumer exhausts all services available under the state Medicaid plan before accessing the waiver.
- (4) Ensuring that all unmet needs of the consumer are identified in the service plan.
- (5) Retaining the service plan for a minimum of five years.
- (6) Explaining the following to the consumer:
 1. What abuse is and how to report abuse.
 2. How to file a complaint about the consumer's services or providers.
 3. The consumer's right to freedom of choice.
- (7) Verifying that providers of consumer-directed attendant care are adequately skilled to meet the needs of the consumer.

b. Interdisciplinary team. The case manager shall establish an interdisciplinary team for the consumer.

(1) Composition. The interdisciplinary team shall include the case manager and the consumer and, if appropriate, the consumer's legal representative, family, service providers, and others directly involved in the consumer's care.

(2) Role. The team shall identify:

1. The consumer's need for services based on the consumer's needs and desires.
2. Available and appropriate services to meet the consumer's needs.
3. Health and safety issues for the consumer that indicate the need for an emergency plan, based on a risk assessment conducted before the team meeting.
4. Emergency backup support and a crisis response system to address problems or issues arising when support ser-

vices are interrupted or delayed or when the consumer's needs change.

c. Service plan. An applicant for elderly waiver services shall have a service plan developed by a qualified provider of case management services under the elderly waiver.

(1) Services included in the service plan shall be appropriate to the problems and specific needs or disabilities of the consumer.

(2) Services must be the least costly available to meet the service needs of the consumer. The total monthly cost of the elderly waiver services exclusive of case management services shall not exceed the established monthly cost of the level of care. Aggregate monthly costs are limited as follows:

<u>Skilled level of care</u>	<u>Nursing level of care</u>
\$2,480	\$1,052

(3) The service plan must be completed before services are provided.

(4) The service plan must be reviewed at least annually and when there is any significant change in the consumer's needs.

d. Content of service plan. The service plan shall include the following information based on the consumer's current assessment and service needs:

- (1) Observable or measurable individual goals.
- (2) Interventions and supports needed to meet those goals.
- (3) Incremental action steps, as appropriate.
- (4) The names of staff, people, businesses, or organizations responsible for carrying out the interventions or supports.
- (5) The desired individual outcomes.
- (6) The identified activities to encourage the consumer to make choices, to experience a sense of achievement, and to modify or continue participation in the treatment process.
- (7) Description of any restrictions on the consumer's rights, including the need for the restriction and a plan to restore the rights. For this purpose, rights include maintenance of personal funds and self-administration of medications.
- (8) A list of all Medicaid and non-Medicaid services that the consumer received at the time of waiver program enrollment that includes:
 1. The name of the service provider responsible for providing the service.
 2. The funding source for the service.
 3. The amount of service that the consumer is to receive.
- (9) Indication of whether the consumer has elected the consumer choice option and, if so, the independent support broker and the financial management service that the consumer has selected.

(10) The determination that the services authorized in the service plan are the least costly.

(11) A plan for emergencies that identifies the supports available to the consumer in situations for which no approved service plan exists and which, if not addressed, may result in injury or harm to the consumer or other persons or in significant amounts of property damage. Emergency plans shall include:

1. The consumer's risk assessment and the health and safety issues identified by the consumer's interdisciplinary team.
2. The emergency backup support and crisis response system identified by the interdisciplinary team.
3. Emergency, backup staff designated by providers for applicable services.

Rescind and reserve subrule **83.22(3)**.

HUMAN SERVICES DEPARTMENT[441](cont'd)

ITEM 6. Amend rule 441—83.26(249A) as follows:

441—83.26(249A) Allowable services. Services allowable under the elderly waiver are *case management*, adult day care, emergency response system, homemaker, home health aide, nursing, respite care, chore, home-delivered meals, home and vehicle modification, mental health outreach, transportation, nutritional counseling, assistive devices, senior companions, consumer-directed attendant care, financial management, independent support brokerage, self-directed personal care, self-directed community supports and employment, and individual-directed goods and services as set forth in rule 441—78.37(249A).

[Filed Emergency 9/14/06, effective 10/1/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5419B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

The Department has previously adopted amendments to move the administration of the State Payment Program to the county central point of coordination (CPC) administrators. Amendments to Chapter 153, Division IV, "State Payment Program for Services to Adults with Mental Illness, Mental Retardation, and Developmental Disabilities," were Adopted and Filed Without Notice and were published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5288B**.

Under the provisions of 2006 Iowa Acts, House File 2780, division III, section 19, most of the Department's State Payment Program appropriation will be allocated to counties. In consultation with the Legislative Services Agency, the Department and the counties have developed a methodology for distributing to the counties the funding appropriated for state fiscal year 2007 for county residents who receive State Payment Program services on and after October 1, 2006.

The Department has met with each county to determine the amounts needed for each county to fund state case services and other support for county residents for the remainder of the fiscal year, taking into consideration the difference between county reimbursement rates and the capped reimbursement rates paid by the state. The Department has determined that the amounts to be allocated to each county for the nine-month period from October 1, 2006, to July 1, 2007, do not exceed the funding available.

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission has reviewed the amendments to Chapter 153 that were previously adopted and has recommended the following changes, which are included in these amendments:

- Clarify in rule 441—153.51(234) that a provider of service does not have to be in Iowa.
- Extend from 10 working days to 15 working days the period the county has to submit application material to the Division of Mental Health and Disability Services in subrules 153.53(4) and 153.53(5) and the period the Division has

to respond to the county in subrule 153.56(1). (These periods were previously 30 or 60 days.)

- Add provisions for "episodic reimbursement" in subrules 153.57(2) and 153.57(3) to cover payment for services that are not of a recurring nature, such as inpatient hospitalization.

- Add provisions in subrule 153.57(3) for prorated payment for a new resident if funding is determined to be available and for payment of 50 percent of the expected amount (instead of no payment) if the county is not timely in responding to the Department's list of active members.

- Remove obsolete and confusing language in subrules 153.53(2), 153.53(4), and 153.55(1).

- Correct terminology throughout the rules to clarify the roles of the Division, the county, and the CPC.

These amendments do not provide for waivers in specified situations. The amendments benefit the parties affected by providing time limits that are more realistic and payment provisions that are more adequate to meet program needs. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on September 13, 2006.

The Department finds that notice and public participation are impracticable. 2006 Iowa Acts, House File 2780, section 18, requires the transfer of State Payment Program responsibilities to be effective October 1, 2006. The Department believes that these amendments are essential to the effective operation of the program. Therefore, these amendments are filed pursuant to Iowa Code section 17A.4(2).

The Department finds that these amendments confer a benefit on the parties affected by providing time limits that are more realistic and payment provisions that are more adequate to meet program needs and by clarifying the meaning of the rules. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments are also published herein under Notice of Intended Action as **ARC 5418B** to allow for public comment.

These amendments are intended to implement Iowa Code section 234.6 and 2006 Iowa Acts, House File 2780, division III.

These amendments became effective October 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **441—153.51(234)** as follows:

Amend the definitions of "application date" and "provider" as follows:

"Application date" means the date *on* a signed central point of coordination application *as* received in the division.

"Provider" means ~~an Iowa~~ a provider of mental health, mental retardation, or *developmental* disability services that has a valid contract for the service with a county to provide services under a county management plan.

ITEM 2. Amend rule 441—153.53(234) as follows:

Amend subrule **153.53(1)**, paragraph "**a**," as follows:

- An application for a person awaiting discharge from a state mental health institute or resource center shall be initi-

HUMAN SERVICES DEPARTMENT[441](cont'd)

ated by the facility's social worker and forwarded to the county of residence CPC for completion.

Amend subrule **153.53(2)** as follows:

Amend paragraphs "a" and "b" as follows:

a. ~~A person eligible for the state payment program as of June 30, 1996, shall remain eligible as long as the eligibility requirements in effect on June 30, 1996, are met.~~ If a county becomes responsible for a new resident whose costs were not included in the payment negotiation between the county and the division, the county shall supply the resident's application and service needs to the ~~department~~ *division* for an eligibility verification and identification of funding availability.

b. The ~~department~~ *division* may institute a waiting list for applicants residing in a county that institutes a waiting list for services funded through the county mental health, mental retardation and developmental disabilities services fund.

Adopt **new** paragraph "c" as follows:

c. The division may institute a waiting list for state payment program clients if the appropriation becomes fully encumbered.

Amend subrule **153.53(3)**, paragraphs "a" and "b," as follows:

a. A copy of the CPC's service ~~authorization request~~ for the applicant;

b. A copy of a *properly* completed standard CPC application form, ~~the last part of which must be a properly completed including the legal settlement worksheet;~~

Amend subrules 153.53(4) and 153.53(5) as follows:

153.53(4) Application date. The date of application is the date all materials described in subrule 153.53(3) are received in the division. The application date from a completed and signed central point of coordination (CPC) application form or ~~the date on court documents~~ may be transferred, ~~as the effective date,~~ to Form 470-0555, Services Reporting System, when:

a. No change.

b. The CPC application is received in the division within ~~ten~~ 15 working days of the CPC application date.

153.53(5) Application submission. The application shall be completed by the CPC or the CPC's official designee ~~and submitted. The CPC or designee shall submit the application~~ with materials required by subrule 153.53(3) to the division within ~~ten~~ 15 working days of the date the CPC or the CPC's official designee receives a completed and signed CPC application form containing a legal settlement worksheet completed in accordance with provisions of Iowa Code chapter 252 and other applicable laws and rulings of courts.

ITEM 3. Amend rule 441—153.55(234) as follows:

Amend paragraph **153.55(1)"b,"** subparagraphs (1) and (4), as follows:

(1) The member is actively and routinely receiving a service that requires funding from the state payment program. ~~Some examples include supported community living services received daily, ongoing therapy received at least monthly, or medication management received at least every three months.~~ Services received less often than quarterly are not considered routine services; the applicant should be enrolled for the month in which the service occurs and disenrolled (closed) immediately thereafter.

(4) Service providers shall access the other payment systems for which the member is eligible before billing the ~~state payment program~~ *county of residence*.

ITEM 4. Amend subrule 153.56(1), introductory paragraph and paragraph "c," as follows:

153.56(1) Certification by department. Following receipt of a completed CPC application form and required document-

tation specified in subrule 153.53(3), division staff of ~~the department~~ shall complete the determination of eligibility as follows:

c. The applicant's eligibility for the state payment program shall be certified to the central point of coordination within ~~ten~~ 15 working days of receipt in the division of the completed application and all verifications specified in subrule 153.53(3).

ITEM 5. Amend rule 441—153.57(234) as follows:

Amend subrule **153.57(1)**, paragraph "d," as follows:

d. The CPC or the CPC's official designee shall notify the ~~department~~ *division* within ~~ten~~ 15 working days of any change in a member's circumstances that would affect the member's eligibility or the member's cost of services, such as a discontinued service, a move out of county, acquired legal settlement, increased income, lack of current address, or death.

Amend subrule **153.57(2)**, paragraph "a," subparagraph (2), and paragraph "b," as follows:

(2) Entering demographic data and other changes of which the CPCs notify the ~~department~~ *division*; and

b. Generating and reconciling quarterly payments ~~and episodic reimbursements~~ to the counties.

Amend subrule 153.57(3) as follows:

153.57(3) Payment to ~~CPCs counties~~. The following policies shall govern payment to ~~CPCs counties~~ for services furnished to members:

a. *List of active members.* Three weeks before the end of each quarter, the state payment program manager shall send each county CPC a list of the members having residence in that county and considered active.

(1) The CPC shall respond to the state payment program manager within five working days of receipt of the notification whether the CPC agrees with this list or requests changes to the list.

(2) The next quarter's prospective payment will be made based upon this list.

b. *Payments based on list.*

(1) If the department receives no response from the county within five working days, ~~no payment will~~ *shall* be made ~~for the listed members equal to 50 percent of the total payment as shown on the division's list for that county.~~

(2) ~~When the response is received from the county, the agreed-upon prospective payment less the 50 percent payment shall be made.~~

c. *Payments for new residents.* For any new resident added pursuant to 153.53(2)"a," the county shall receive a prorated payment for that quarter if funding is determined to be available.

d. *Episodic reimbursement.* Episodic reimbursement will be made for services that are not of a recurring nature, including inpatient hospitalizations in accordance with the county policy and procedures plan and other costs related to the hospitalizations.

~~b-e.~~ *Deductions.* Moneys that the CPC county received but did not expend, according to the report required by paragraph 153.57(1)"b," shall be deducted from the county's payment for the next quarter.

[Filed Emergency 9/14/06, effective 10/1/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5420B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed Emergency After Notice**

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 204, "Subsidized Guardianship Program," Iowa Administrative Code.

In 1999, the Department of Human Services adopted Chapter 204 to establish a subsidized guardianship program to provide financial assistance to guardians of eligible children who cannot be adopted and are not able to return home. Pursuant to 2000 Iowa Acts, chapter 1228, section 43, implementation of those rules was delayed until funding was appropriated by the General Assembly. Those rules have never been implemented.

In 2006 Iowa Acts, House File 2734, section 17, subsection 10, the General Assembly gave the Department authority to operate a subsidized guardianship program, notwithstanding 2000 Iowa Acts, chapter 1228, section 43, if:

- The United States Department of Health and Human Services approves a waiver under Title IV-E of the federal Social Security Act or the federal Social Security Act is amended to allow Title IV-E funding to be used for subsidized guardianship, and
- The subsidized guardianship program can be operated without loss of Title IV-E funds.

The United States Department of Health and Human Services has approved a Title IV-E waiver to allow the Department to implement a five-year demonstration project for a subsidized guardianship program to provide financial assistance to guardians of eligible children and to test new approaches to service delivery for improving outcomes for children. The federal government may extend or reauthorize this project after the initial five-year period.

These amendments incorporate the requirements of the demonstration waiver into Chapter 204. Under the terms of the waiver, the Department is required to assign eligible children randomly to either a control group or to an experimental group. Children assigned to the control group will not be eligible to receive subsidized guardianship. Children assigned to the experimental group will be eligible to receive subsidized guardianship if all other conditions are met.

The purpose of the project is to test whether the availability of subsidized guardianship results in reduced lengths of stay in foster care, increased permanency rates, the same or lower reentry rates, and a higher degree of satisfaction with the services for children in the experimental group as compared to children in the control group.

The Department will contract with an independent entity to evaluate the project. The evaluator will approve the algorithm used to make the assignments and assist the Department in selecting the sample. The Department plans to select two-thirds of the sample for the experimental group and one-third for the control group. If the evaluation produces strong preliminary evidence of positive findings in favor of the experimental group, the state may request an adjustment to the sampling ratio to increase the proportion of children assigned to the experimental group.

Currently, about 900 children have the age, permanency goal, and foster care experience to qualify for the project. After the initial selection, assignment will be made monthly for new cases that qualify. Over the course of the five-year demonstration, the Department expects that nearly 3000 chil-

dren will qualify for project assignment. The number of children who actually enter subsidized guardianship will depend on how many have caregivers who are willing to serve as guardians.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

Notice of Intended Action on these amendments was published in the Iowa Administrative Bulletin on July 19, 2006, as **ARC 5251B**. The Department received no comments on the Notice of Intended Action. The Department has made two changes to the amendments published under Notice of Intended Action:

- The wording of subparagraph 204.4(2)"a"(2) was corrected to "subsidized guardianship placement" instead of "subsidized adoption placement." The subparagraph now reads as follows:

"(2) If, at the time of placement, the child was receiving the special needs payment found at 441—paragraph 156.6(4)"d" or was in group care and would have been eligible for the payment if the child had been in foster care, the child shall be eligible for this payment in a subsidized guardianship placement."

- The wording of rule 441—204.7(234) was clarified to read as follows:

"441—204.7(234) Reinstatement of subsidy. Reinstatement of the subsidy shall be made when the subsidy was terminated because of the guardian's request, and the guardian has requested reinstatement."

The Council on Human Services adopted these amendments on September 13, 2006.

The Department finds that these amendments confer a benefit on children in foster care by enabling a substantial number of them to consider subsidized guardianship as a permanency alternative. Therefore, these amendments are filed pursuant to Iowa Code section 17A.5(2)"b"(2), and the normal effective date of these amendments is waived.

These amendments will become effective on November 1, 2006.

These amendments are intended to implement Iowa Code section 234.6 and 2006 Iowa Acts, House File 2734, section 17, subsection 10.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [Ch 204 preamble, 204.1 to 204.7] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARC 5251B**, IAB 7/19/06.

[Filed Emergency After Notice 9/15/06, effective 11/1/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5426B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed Emergency**

Pursuant to the authority of Iowa Code section 100C.7, the Fire Marshal hereby amends Chapter 275, "Certification of Automatic Fire Extinguishing System Contractors," Iowa Administrative Code.

Iowa Code chapter 100C provides for the certification of automatic fire extinguishing system contractors by the State Fire Marshal. After an extensive rule development process, the Fire Marshal recently adopted rules for the program which became effective July 1, 2006. The rules provide a transition period and require that contractors achieve certification by October 1, 2006.

One of the categories of certification is for contractors who install only preengineered dry chemical and wet agent systems. In the rules which became effective on July 1, 2006, provisional certification in this category requires that the contractor's responsible managing employee has received training from the manufacturer of a system which the contractor installs. The Fire Marshal has received comments from several contractors who have stated that it is impractical to receive the training and to provide the documentation by October 1, 2006. Consequently, the Fire Marshal, acting on a recommendation from members of the Fire Extinguishing System Contractors Advisory Board, has decided to allow contractors who are provisionally certified to work only on dry chemical and wet agent extinguishing systems until April 1, 2007, to provide the required documentation of training required by a manufacturer or, alternatively, to provide documentation of training which has been provided by a third party and has been approved by the Fire Marshal. This provision does not extend the deadline for obtaining certification from the Fire Marshal. Anyone acting as a fire extinguishing system contractor on or after October 1, 2006, will still be required to apply for and receive certification from the Fire Marshal in order to operate in Iowa.

In addition to extending the time to provide documentation of required training for provisionally certified contractors working only on preengineered dry chemical and wet agent extinguishing systems, these amendments also correct two addresses of Web sites referenced in the rules.

Pursuant to Iowa Code section 17A.4(2), the Department finds that notice and public participation prior to the adoption of these amendments are impractical. The change to the rule, which extends the time for compliance with provisional certification requirements for fire extinguishing system contractors who work only on preengineered dry chemical or wet agent systems, needs to be effective by October 1, 2006, so that these contractors may continue to operate in compliance with the law.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of these amendments, 35 days after publication, should be waived and these amendments made effective October 1, 2006, after filing with the Administrative Rules Coordinator. These amendments confer a benefit upon the public by clarifying that provisionally certified contractors working only on preengineered dry chemical and wet agent extinguishing systems may legally continue operation after October 1, 2006.

These amendments are also published herein under Notice of Intended Action as **ARC 5425B** to allow for public com-

ment and participation in the rule-making process. A public hearing on the amendments will be held on November 2, 2006.

These amendments are intended to implement Iowa Code chapter 100C.

These amendments became effective on October 1, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend subrule **275.3(4)** by rescinding paragraph "c" and adopting in lieu thereof the following **new** paragraph:

c. A contractor may install preengineered dry chemical or wet agent fire suppression systems, if the responsible managing employee meets requirements specified in subparagraphs (1) and (2), or if the responsible managing employee meets the requirements specified in subparagraph (3):

(1) Satisfactory completion of any training required by the manufacturer for at least one system which the contractor installs; and

(2) Certification by the National Institute for Certification in Engineering Technologies at level II or above in fire protection technology, for special hazards suppression systems; certification by the National Association of Fire Equipment Distributors in preengineered kitchen fire suppression systems or preengineered industrial fire suppression systems; or satisfactory completion of an applicable training or testing program which has been approved by the fire marshal.

(3) On or prior to April 1, 2008, a contractor may receive provisional certification with endorsement for installation of preengineered dry chemical or wet agent systems. A contractor who is applying for provisional certification on or after April 1, 2007, shall provide documentation to the fire marshal of either "1" or "2" below. A contractor who has received provisional certification prior to April 1, 2007, shall, by April 1, 2007, provide documentation of either "1" or "2" below.

1. Completion of training required by a manufacturer of at least one system which the contractor installs or maintains, or

2. Certification by the National Institute for Certification in Engineering Technologies at level II or above in fire protection technology, for special hazards suppression systems; certification by the National Association of Fire Equipment Distributors in preengineered kitchen fire suppression systems or preengineered industrial fire suppression systems; or satisfactory completion of an applicable training or testing program which has been approved by the fire marshal.

Provisional certification shall not be recognized on or after April 1, 2009.

ITEM 2. Amend subrule 275.5(1) as follows:

275.5(1) Application. Any contractor seeking certification as a fire extinguishing system contractor shall submit a completed application form to the fire marshal. The application shall be filed no later than 30 days prior to the date on which certification is required or on which an existing certification expires. An application form may be obtained from the fire marshal or from the Web site of the fire extinguishing system contractors certification program (www.state.ia.us/government/dps/fm/fesecp). The application form shall be

PUBLIC SAFETY DEPARTMENT[661](cont'd)

submitted with all required attachments and the required application fee established in subrule 275.5(2). An application shall not be considered complete unless all required information is submitted, including required attachments and fees, and shall not be processed until it is complete.

NOTE: The Web site for the fire extinguishing system contractors certification program is: <http://www.dps.state.ia.us/fm/fesccp/index.shtml>.

ITEM 3. Amend rule 661—275.6(100C) as follows:

661—275.6(100C) Complaints. Complaints regarding the performance of any certified contractor, failure of a certified contractor to meet any of the requirements established in Iowa Code chapter 100C or this chapter or any other provision of law, or operation as a fire extinguishing system contractor without certification may be filed with the fire marshal. Complaints should be addressed as follows:

Fire Extinguishing System Contractors
Certification Program
Fire Marshal Division
Iowa Department of Public Safety
401 S.W. 7th Street, Suite N
Des Moines, Iowa 50309

Complaints may be submitted by electronic mail to fesccp@dps.state.ia.us or by facsimile to (515)242-6299.

Complaints should be as specific as possible and shall clearly identify the contractor against whom the complaint is filed. A form which may be used to file complaints is available on the Web site of the fire extinguishing system contractors certification program at <http://www.state.ia.us/government/dps/fm/fesccp>. Complaints may be filed without using the complaint form provided, but shall be submitted in writing. A complaint may be submitted anonymously, but if the name and contact information of the complainant are provided, the complainant will be notified of the disposition of the complaint.

NOTE: The Web site for the fire extinguishing system contractors certification program is: <http://www.dps.state.ia.us/fm/fesccp/index.shtml>.

[Filed Emergency 9/20/06, effective 10/1/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5458B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 175A.3, the Department of Agriculture and Land Stewardship hereby adopts Chapter 52, "Grape and Wine Development Funding Program," Iowa Administrative Code.

The rules establish procedures to govern the administration of the Grape and Wine Development Fund by the Department of Agriculture and Land Stewardship in accordance with Iowa Code chapter 175A.

Notice of Intended Action was published in the Iowa Administrative Bulletin on May 24, 2006, as **ARC 5118B**. No comments were received. However, for clarification, subparagraph 52.6(4)"a"(6) has been changed.

The subparagraph now reads as follows:

"(6) Ease in duplicating project outcomes; and"

No waiver provision is included in these rules; however, the Department has a general rule which allows for waivers in appropriate cases. The waiver rule applies to these rules.

These rules will become effective November 15, 2006.

These rules are intended to implement Iowa Code chapter 175A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 52] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 5118B**, IAB 5/24/06.

[Filed 9/21/06, effective 11/15/06]

[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5453B**AGRICULTURE AND LAND
STEWARDSHIP DEPARTMENT[21]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 17A.3 and 99D.22, the Department of Agriculture and Land Stewardship hereby amends Chapter 62, "Registration of Iowa-Foaled Horses and Iowa-Whelped Dogs," Iowa Administrative Code.

This amendment is in response to a petition filed on behalf of the Iowa Quarter Horse Association to relax the rules allowing for the registration of quarter horse foals that are the result of an embryo transfer from a donor mare to a recipient mare. The amendment permits the quarter horse foal to be registered in the Iowa-foaled horse and Iowa-whelped dog breeding program without requiring that the donor mare be maintained in Iowa until after the foal is born and has been inspected. The amendment applies only to a quarter horse foal because a foal resulting from an embryo transplant is not currently eligible to participate in the Iowa-foaled horse and Iowa-whelped dog breeding program if the foal is a thoroughbred or a standardbred.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5312B**. No comments were received during the public comment period.

This amendment is intended to implement Iowa Code section 99D.22.

This amendment shall become effective on November 15, 2006.

The following amendment is adopted.

Amend subrule 62.37(1) as follows:

62.37(1) The ~~donor mare and the~~ recipient mare must be in the state of Iowa before the first day of December of the year prior to foaling and must remain together at the same address in Iowa until the foal or foals are born and are inspected by the department.

[Filed 9/21/06, effective 11/15/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5448B**COLLEGE STUDENT AID
COMMISSION[283]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 261.3, the College Student Aid Commission hereby amends Chapter 10, "Federal Family Education Loan Programs," Iowa Administrative Code.

The adopted amendments align the Commission's rules with 2006 Iowa Acts, House File 2527, which updates the definition of an "eligible borrower." According to federal regulations and interpretations, the definition change also opens the Commission's guarantee to a broader range of lenders. These amendments ensure that the Commission's portfolio is protected against the guarantee of consolidation loans that include defaulted student loans and allow the Commission the ability to limit the amount of consolidation loans it will hold. The amendments also ensure that the Commission's rules are in alignment with changes in federal law recently made effective by the U.S. Congress, and they remove tax offset language from this chapter, as the language belongs more appropriately in Chapter 37, "Student Loan Debt Collection."

Notice of Intended Action was published in the July 5, 2006, Iowa Administrative Bulletin as **ARC 5226B**. These amendments were also Adopted and Filed Emergency and were published as **ARC 5227B** on the same date. The adopted amendments are identical to those published under Notice and Adopted and Filed Emergency.

These amendments were adopted during the September 21, 2006, meeting of the Iowa College Student Aid Commission.

These amendments will become effective on November 15, 2006, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement Iowa Code chapter 261.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of

COLLEGE STUDENT AID COMMISSION[283](cont'd)

these amendments [amendments to Ch 10] is being omitted. These amendments are identical to those published under Notice as **ARC 5226B** and Adopted and Filed Emergency as **ARC 5227B**, IAB 7/5/06.

[Filed 9/21/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5439B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 2, "Grow Iowa Values Fund Assistance," and Chapter 68, "High Quality Job Creation Program," Iowa Administrative Code.

Pursuant to 2006 Iowa Acts, House File 2782, section 39, a change was made to the definition of "benefits" for purposes of the Wage-Benefits Tax Credit chapter of the Iowa Code. Because there are cross references to that definition in the High Quality Job Creation Program (see Iowa Code Supplement section 15.335A(2)(c)) and the Grow Iowa Values Fund (see Iowa Code Supplement section 15G.112(3)), the method by which benefits are valued must be revised in the Department's rules. The value of benefits is included as part of the wage calculation for purposes of qualifying for assistance from the High Quality Job Creation Program and the Grow Iowa Values Fund. The amendments clarify how medical, dental, and vision insurance plan benefits will be valued for purposes of calculating the starting wage of a job.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5301B** and the amendments were simultaneously Adopted and Filed Emergency as **ARC 5300B**. A public hearing was held on September 12, 2006. No comments were received. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

The Iowa Economic Development Board adopted these amendments on September 21, 2006.

These amendments will become effective on November 15, 2006, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement 2006 Iowa Acts, House File 2782, section 39.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [2.4(2), 68.1, 68.3(3)] is being omitted. These amendments are identical to those published under Notice as **ARC 5301B** and Adopted and Filed Emergency as **ARC 5300B**, IAB 8/16/06.

[Filed 9/22/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5440B

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts amendments to Chapter 59, "Enterprise Zones," Iowa Administrative Code.

The amendments include adding definitions for "agricultural land," "blighted area," and "transportation enterprise zone"; extending the time period for zone certification from March 1, 2006, to July 1, 2010; changing the eligibility requirements for cities from population to census tract criteria; removing city zones as part of the county 1 percent area limit; establishing transportation enterprise zone criteria, zone amendment criteria, and zone extension criteria; providing for joint city and county enterprise zone commissions; and allowing projects to extend beyond zone boundaries.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5303B** and the amendments were simultaneously Adopted and Filed Emergency as **ARC 5302B**.

A public hearing was held on September 12, 2006. No comments were received during the comment period. Prior to the filing of proposed rules, written comments were received from Representative Kurt Swaim and the Professional Developers of Iowa. They requested that the Department consider adopting rules to allow counties approved under the 1990 Census data that had not reached their 1 percent cap to be able to designate new enterprise zones. The final amendments do not include such authorization because the Department does not believe it would be consistent with the new statutory language. Some counties that were previously eligible using the 1990 Census are no longer eligible under the new law which requires the use of 2000 Census data. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

The Iowa Economic Development Board adopted these amendments on September 21, 2006.

These amendments will become effective on November 15, 2006, at which time the Adopted and Filed Emergency amendments are hereby rescinded.

These amendments are intended to implement 2006 Iowa Acts, Senate File 2147 and Senate File 2183.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [59.2 to 59.4, 59.6] is being omitted. These amendments are identical to those published under Notice as **ARC 5303B** and Adopted and Filed Emergency as **ARC 5302B**, IAB 8/16/06.

[Filed 9/22/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5441B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts Chapter 70, "Port Authority Grant Program," Iowa Administrative Code.

The new chapter implements 2006 Iowa Acts, House File 2782, section 1(4). The legislation authorizes the establishment of an Iowa Port Authority Grant Program. The rules describe eligibility requirements, the application and review process, and contract administration procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5304B** and the rules were simultaneously Adopted and Filed Emergency as **ARC 5305B**. A public hearing was held on September 12, 2006. No comments were received. These amendments are identical to those published under Notice and Adopted and Filed Emergency.

The Iowa Economic Development Board adopted these amendments on September 21, 2006.

These rules will become effective on November 15, 2006, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement 2006 Iowa Acts, House File 2782, section 1(4).

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Ch 70] is being omitted. These rules are identical to those published under Notice as **ARC 5304B** and Adopted and Filed Emergency as **ARC 5305B**, IAB 8/16/06.

[Filed 9/22/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5442B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts Chapter 71, "Targeted Jobs Withholding Tax Credit Program," Iowa Administrative Code.

The new chapter implements 2006 Iowa Acts, House File 2731. The legislation authorizes the establishment of a Targeted Jobs Withholding Tax Credit Program. The rules describe eligibility requirements, the application and review process, and contract administration procedures.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5306B** and the rules were simultaneously Adopted and Filed Emergency as **ARC 5307B**. A public hearing was held on September 12, 2006. The following written and oral comments were received:

- The administrative rules should be clarified to allow for retained employees to be included in this program.
- The administrative rules should be amended to allow tax credits under this program to be issued only after the business has taken advantage of the 260E job training program.

Based on those comments, the proposed rules have been amended to include the term "retained employee" when referencing eligible jobs/employees under the program.

The Iowa Economic Development Board adopted these amendments on September 21, 2006.

These rules will become effective on November 15, 2006, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These rules are intended to implement 2006 Iowa Acts, House File 2731.

The following new chapter is adopted.

Adopt the following new chapter:

CHAPTER 71
TARGETED JOBS WITHHOLDING TAX
CREDIT PROGRAM

261—71.1(81GA,HF2731) Definitions.

"Act" means 2006 Iowa Acts, House File 2731.

"Board" means the Iowa economic development board created in Iowa Code section 15.103.

"Business" means any professional services or industrial enterprise, including medical treatment facilities, manufacturing facilities, corporate headquarters, and research facilities. "Business" does not include a retail operation or a business which closes or substantially reduces its operation in one area of this state and relocates substantially the same operation to another area of this state.

"Countywide average wage" means the average that the department calculates using the most current four quarters of wage and employment information as provided in the quarterly covered wage and employment data report as provided by the department of workforce development. Agricultural/mining and governmental employment categories are deleted in compiling the wage information.

"Department" means the Iowa department of economic development.

"Employee" means the individual employed in a targeted job that is subject to a withholding agreement.

"Employer" means a business creating or retaining targeted jobs in an urban renewal area of a pilot project city pursuant to a withholding agreement.

"Pilot project city" means a city that has applied and been approved as a pilot project city pursuant to rule 71.2(81GA, HF2731).

"Qualifying investment" means a capital investment in real property including the purchase price of land and existing buildings, site preparation, building construction, and long-term lease costs. "Qualifying investment" also means a capital investment in depreciable assets.

"Targeted job" means a job in a business which is or will be located in an urban renewal area of a pilot project city that pays a wage at least equal to the countywide average wage. "Targeted job" includes new or retained jobs from Iowa business expansions or retentions within the city limits of the pilot project city and those jobs resulting from established out-of-state businesses, as defined by the department, that are moving to or expanding in Iowa.

"Urban renewal area" means the same as defined in Iowa Code section 403.17.

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

"Withholding agreement" means an agreement authorized in rule 71.4(81GA, HF2731) between a pilot project city and an employer concerning the targeted jobs withholding tax credit.

261—71.2(81GA, HF2731) Eligibility requirements. An eligible city may apply to the department to be designated as a pilot project city. An eligible city is a city that contains three or more census tracts and is located in a county meeting one of the following requirements:

1. A county that borders Nebraska.
2. A county that borders South Dakota.
3. A county that borders a state other than Nebraska or South Dakota.

261—71.3(81GA, HF2731) Application process and review.

71.3(1) Application. The department shall develop a standardized application and make the application available to eligible cities. The application procedures are as follows:

a. An eligible city seeking approval as a pilot project city will submit an application to the department. The department shall determine if the application is complete.

b. The department will review the application and consider the following criteria:

(1) Need for pilot project status. The city shall demonstrate why status as a pilot project city is necessary, including how the city will utilize the program to attract and retain employers.

(2) Planned and current projects. The city shall provide information on planned and current economic development projects that are taking place or will take place in an urban renewal area. The city shall demonstrate its ability to enter into a withholding agreement with an eligible business within one year of the city's approval as a pilot project city.

(3) Use of withholding funds. If approved as a pilot project city, the city shall indicate how the city plans to utilize withholding funds generated from the program. The city shall provide an estimate of the number of withholding agreements the city anticipates executing, the amount of withholding funds the city expects to generate as a result of the program, and the investment to be leveraged by use of the program.

(4) Urban renewal areas. The city shall identify the number of urban renewal areas in the city and the location of the urban renewal areas where withholding funds may be utilized.

(5) Matching funds. The city shall identify its ability to provide matching funds for projects involving withholding credits, including the potential sources of matching funds.

c. A resolution of support from the city applying for approval as a pilot project city is required as part of the application. This resolution shall include approval of the submission of the application to the department for status as a pilot project city.

d. The department may request additional information from a city that is applying for pilot project city status or may use other resources to obtain the needed information.

e. Applications filed on or after October 1, 2006, shall not be considered.

71.3(2) Approval of applications. The department shall approve four eligible pilot project cities: one pursuant to 71.2"1," one pursuant to 71.2"2," and two pursuant to 71.2"3." If more than two cities meeting the requirements of 71.2"3" apply to be designated as a pilot project city, the department of management, in consultation with the department, shall determine which two cities hold the most poten-

tial to create new jobs or generate the greatest capital in their areas. Department staff will prepare a recommendation for each of the cities to be approved as pilot project cities. The board will make the final decision to approve, defer or deny applications. Once applications are approved by the board, all communities applying for pilot project city status will be notified of the status of their applications.

71.3(3) Status as a pilot project city. If a pilot project city does not enter into a withholding agreement within one year of its approval as a pilot project city, the city shall lose its status as a pilot project city. Upon such occurrence, the department shall take applications from other eligible cities to replace that city. Another city shall be designated within six months.

261—71.4(81GA, HF2731) Withholding agreements.

71.4(1) Designated account. An approved pilot project city may provide by city ordinance for a designated account for the deposit of funds generated through withholding agreements under the targeted jobs withholding tax credit program.

71.4(2) Entering into an agreement. A pilot project city may enter into a withholding agreement with a business locating to the community from another state that is creating or retaining targeted jobs in an urban renewal area. The pilot project city may enter into a withholding agreement with a business currently located in Iowa only if the business is creating at least ten new jobs or making a qualifying investment of at least \$500,000 within the urban renewal area. A business shall not be obligated to enter into a withholding agreement with a pilot project city. A pilot project city shall not enter into a withholding agreement with a business after June 30, 2010.

71.4(3) Required components of a withholding agreement. A withholding agreement shall be disclosed to the public and shall contain all of the following:

a. A copy of the adopted development agreement between the pilot project city and employer, including how withholding funds generated by the city will be used.

b. A list of all other incentives or financial assistance the business has requested or is receiving from other federal, state, or local economic development programs including loans, grants, forgivable loans, and tax credits.

c. The amount of assistance provided by the pilot project city for the project.

d. Documentation of the approval of the project by local participating authorities.

71.4(4) Length of withholding agreements. A withholding agreement may have a term of up to ten years.

71.4(5) Withholding generated through the program.

a. Once a pilot project city and an employer have entered into a withholding agreement, an amount equal to 3 percent of the gross wages paid by the business to each employee under a withholding agreement shall be credited from the payment made by the employer pursuant to Iowa Code Supplement section 422.16. If the amount of withholding by the employer is less than 3 percent of the gross wages paid to the employees covered by the withholding agreement, the employer shall receive a credit against other withholding taxes due by the employer or may carry the credit forward for up to ten years or until depleted, whichever occurs first.

b. The employer shall submit the amount of the credit quarterly, in the same manner as withholding payments are made to the department of revenue, to the pilot project city.

c. An employee whose wages are subject to a withholding agreement shall receive full credit for the amount withheld under the targeted jobs withholding tax credit program

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261](cont'd)

as provided in Iowa Code Supplement section 422.16.

71.4(6) Use of withholding funds. A pilot project city shall allocate the withholding funds into a designated account in the special fund for the urban renewal area in which the targeted jobs are located. All funds deposited shall be used or pledged by the pilot project city for an urban renewal project related to the employer pursuant to the withholding agreement.

71.4(7) Local match requirement. A pilot project city entering into a withholding agreement shall arrange for a match of at least one dollar for each withholding dollar received by the city. The local match may come from the pilot project city, a private donor, or the employer or a combination of the three. Local matches may be in the form of cash or in-kind contributions to be used for the project.

71.4(8) Termination of a withholding agreement. Following the termination of a withholding agreement, the employer credits shall cease and any funds received by the pilot project city after the agreement has been terminated shall be remitted to the state treasurer to be deposited in the general fund of the state. The pilot project city shall notify the department of revenue and the department of economic development within 30 days of the termination of the withholding agreement. If the employer does not meet the requirements of the withholding agreement, the agreement shall be terminated and any withholding credits for the employer shall cease. If the employer has created or retained the required number of new jobs under the agreement, and the number of jobs falls below the required level, the employer shall not be considered in default until 18 months after the date of the decrease in new jobs.

71.4(9) Participation in other programs. An employer may participate in the Iowa industrial new jobs training program under Iowa Code Supplement section 260E.5 or may claim a supplemental withholding credit under Iowa Code Supplement section 15E.197, at the same time the employer is participating in the targeted jobs withholding tax credit program. The withholding credit under section 260E.5 and the supplemental withholding credit under section 15E.197 shall be collected and disbursed prior to the collection and disbursement of the withholding credit under the targeted jobs withholding tax credit program.

261—71.5(81GA,HF2731) Project approval.

71.5(1) Application for project approval.

a. Prior to entering into a withholding agreement with an employer, a pilot project city must receive approval from the department. The department shall develop a standardized application for project approval and shall make the application available to eligible pilot project cities. The application for project approval shall include, but not be limited to, the following information regarding a project:

(1) A general description of the project, including how the pilot project city will utilize withholding funds generated by the project.

(2) Information regarding the number of targeted jobs in the project, the wages of the targeted jobs, and the types of jobs created by the project.

(3) A budget for the project, showing the total project cost, the amount of local matching funds committed to the project, and the amount of withholding funds the city will receive from the project.

(4) A copy of the withholding agreement to be entered into between the city and the employer.

(5) A letter or resolution of support from the local government showing support for the project.

b. Applications for project approval for the targeted jobs withholding tax credit program may be submitted at any time. The department will review applications for projects in as timely a manner as possible. A pilot project city will be notified in writing of the department's decision regarding the project.

71.5(2) Certification to the department of revenue.

a. The employer shall certify to the department of revenue that the targeted jobs withholding tax credit is in accordance with the withholding agreement and shall provide other information the department of revenue may require.

b. A pilot project city shall certify to the department of revenue the amount of the targeted jobs withholding tax credit an employer has remitted to the city and shall provide other information the department of revenue may require.

c. Notice of any withholding agreement shall be provided promptly to the department of revenue following its execution between a pilot project city and an employer.

261—71.6(81GA,HF2731) Reporting requirements.

71.6(1) Required reports.

a. At the time the pilot project city submits its budget to the department of management, the pilot project city shall submit to the department of management and the department a description of the activities involving the use of withholding agreements. The description shall include, but not be limited to, the following:

(1) The total number of targeted jobs associated with withholding agreements and the wages of those targeted jobs.

(2) A breakdown of the number of targeted jobs that are associated with Iowa business expansions or retentions within the city limits of the pilot project city and the number of targeted jobs resulting from out-of-state businesses moving to or expanding in Iowa.

(3) The number of withholding agreements and the amount of withholding credits associated with those agreements.

(4) The types of businesses that entered into withholding agreements with the city and the types of businesses that declined the city's proposal to enter into a withholding agreement with the city.

b. The department may request additional reports from pilot project cities as necessary to determine the status of the targeted jobs withholding tax credit program.

71.6(2) Annual report. The department shall prepare an annual report for the governor, the general assembly, and the legislative services agency on the targeted jobs withholding tax credit program. This report shall be due on July 31 of each year. The report shall include but not be limited to the following:

a. The amount of withholding funds each project received.

b. The number of new and retained jobs resulting from the program.

c. The average wage of jobs resulting from the program.

d. An evaluation of the investment made by the state, including but not limited to the terms in paragraphs "a" to "c" of this subrule.

These rules are intended to implement 2006 Iowa Acts, House File 2731.

[Filed 9/22/06, effective 11/15/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5443B**ECONOMIC DEVELOPMENT, IOWA
DEPARTMENT OF[261]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development hereby adopts an amendment to Chapter 168, "Additional Program Requirements," Iowa Administrative Code.

The amendment adds a definition of "employee" that is applicable to all state direct financial assistance programs and tax credit programs administered by the Department. The new definition provides that the term "employee" means a full-time employee on the payroll of a business receiving state financial assistance from the Department. The term "employee" may also mean a business's leased or contract employee provided there is a binding contract between the business receiving financial assistance and a third-party provider. That contract must clearly specify the wages and benefits to be paid to the leased or contract employee, and the term of the contract must correspond to the term of the contract between the Department and the business receiving financial assistance.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 19, 2006, as **ARC 5234B**. A public hearing to receive comments about the proposed amendment was held on August 10, 2006. One comment was received in support of the amendment. The final amendment is identical to the one published under Notice.

The Iowa Economic Development Board adopted the amendment on September 21, 2006.

The amendment will become effective on November 15, 2006.

This amendment is intended to implement Iowa Code chapters 15 and 17A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of this amendment [168.301, 168.302] is being omitted. This amendment is identical to the one published under Notice as **ARC 5234B**, IAB 7/19/06.

[Filed 9/22/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5424B**EDUCATION DEPARTMENT[281]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 256.7(5), the State Board of Education amends Chapter 44, "School Buses," Iowa Administrative Code.

Chapter 44 regulates how school buses are to be equipped. It has been over seven years since a thorough overview of the chapter has been conducted, and in that time, bus technology has advanced to the extent that several provisions in Chapter 44 were outdated. In addition, pertinent federal regulations have updated terminology used in the industry. Finally, the

amendments bring Iowa more in line with national standards established by the National Congress on School Transportation.

An agencywide waiver provision is provided in 281—Chapter 4.

Notice of Intended Action was published in the June 7, 2006, Iowa Administrative Bulletin as **ARC 5136B**. A public hearing was held on July 20, 2006, and public comments were allowed until 4:30 p.m. on July 20, 2006. No written comments were received. Seven persons attended the public hearing. No one spoke in opposition to the amendments. One person expressed concern that the level of required decibels for the backup alarm as set forth in subrule 44.6(2), paragraph "i," is too loud; another person responded that safety is paramount to noise level. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapters 285 and 321.

These amendments shall become effective November 15, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Ch 44] is being omitted. These amendments are identical to those published under Notice as **ARC 5136B**, IAB 6/7/06.

[Filed 9/19/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5460B**ENVIRONMENTAL PROTECTION
COMMISSION[567]****Adopted and Filed Without Notice**

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.172(5), the Environmental Protection Commission for the Department of Natural Resources hereby rescinds Chapter 47, "Private Well Sampling, Rehabilitation, and Closure—Grants to Counties," Iowa Administrative Code.

The administrative portion of the "Grants to Counties" program, which provides for the transfer and accounting of program funds to counties, was transferred from the Department to the Iowa Department of Public Health (IDPH) on July 1, 2002. The technical assistance portion of the program, which provides technical assistance and education to the 98 participating counties on the proper plugging, renovation, and testing of private wells, is still provided by the Department's Water Supply Operations Section staff.

The adoption of 641—Chapter 24, which was effective July 1, 2006, completes the transfer of administrative authority for the "Grants to Counties" program from the Department to IDPH. The new rules in 641—Chapter 24 institute several program changes, summarized below:

1. The county contracts will be administered through the county board of health, instead of by the county board of supervisors;
2. Fee changes are established;
3. Water well tests must be taken by a "qualified" county employee. Counties will not be able to distribute water test

ENVIRONMENTAL PROTECTION COMMISSION[567](cont'd)

kits to homeowners for sampling.

In compliance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary because 567—Chapter 47 has been replaced by a new 641—Chapter 24, “Private Well Testing, Reconstruction, and Plugging—Grants to Counties,” administered by the Iowa Department of Public Health, effective July 1, 2006. 641—Chapter 24 went through a public notice public hearing process for its adoption. The rescission of 567—Chapter 47 is merely a culmination of that process. Adoption of the new 641—Chapter 24 completed the official transfer of administrative authority of the Grants to Counties program from the Iowa Department of Natural Resources to the Iowa Department of Public Health.

The Commission adopted this amendment on September 19, 2006.

This amendment will become effective on November 15, 2006.

This amendment is intended to implement Iowa Code section 455B.172.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendment is adopted.

Rescind and reserve **567—Chapter 47.**

[Filed Without Notice 9/21/06, effective 11/15/06]

[Published 10/11/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5459B

ENVIRONMENTAL PROTECTION COMMISSION[567]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code sections 455B.105 and 455B.173, the Environmental Protection Commission hereby amends Chapter 60, “Scope of Title—Definitions—Forms—Rules of Practice,” Chapter 62, “Effluent and Pretreatment Standards: Other Effluent Limits or Prohibitions,” and Chapter 63, “Monitoring, Analytical and Reporting Requirements,” Iowa Administrative Code.

The purpose of these amendments is to update references to federal effluent and pretreatment standards and associated analytical methods. References to federal effluent and pretreatment standards found in rules 567—62.4(455B) and 567—62.5(455B) are amended to reflect updates to 40 Code of Federal Regulations (CFR). The change to rule 567—60.2(455B) updates the definition of “Act” to include amendments to the Water Pollution Control Act through July 1, 2006. The change to subrule 63.1(1) updates the reference to the latest federally approved methods for the analysis of wastewater samples.

There have been no amendments to the Clean Water Act or to federal toxic effluent standards, rule 62.5(455B), since these rules were last updated in 2005. On October 14, 2005, EPA revised the general pretreatment regulations in an attempt to streamline the pretreatment program. On December 13, 2005, EPA amended the standards for the iron and steel

manufacturing industry, allowing alternative limitations for oil and grease and correcting various effective dates.

In accordance with Iowa Code section 17A.4(2), the Commission finds that notice and public participation are unnecessary. Under rule 567—62.2(455B), the Commission has determined previously that good cause exists for exempting from the notice and public participation requirements of Iowa Code section 17A.4(1) the adoption by reference of certain federal effluent and pretreatment standards. The Commission found that public participation is unnecessary since the Commission must adopt effluent and pretreatment standards at least as stringent as the enumerated promulgated federal standards in order to have continued approval of the Environmental Protection Agency (EPA) of the Department’s NPDES program. Iowa Code section 455B.173(3) requires that the effluent and pretreatment standards adopted by the Commission not be more stringent than the enumerated promulgated federal standards. The Commission also found that public participation is unnecessary when updating the reference to approved methods for analysis because these methods are required by EPA to be used to implement federal effluent and pretreatment standards.

The Commission adopted these amendments on September 19, 2006.

These amendments will become effective on November 15, 2006.

These amendments may have an impact upon small businesses.

These amendments are intended to implement Iowa Code chapter 455B, division III, part 1.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee’s review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rule **567—60.2(455B)**, definition of “Act,” to read as follows:

“Act” means the Federal Water Pollution Control Act as amended through July 1, 2005 2006, 33 U.S.C. §1251 et seq.

ITEM 2. Amend rule 567—62.4(455B), introductory paragraph, to read as follows:

567—62.4(455B) Federal effluent and pretreatment standards. The federal standards, 40 Code of Federal Regulations (CFR), revised as of July 1, 2005 2006, are applicable to the following categories:

ITEM 3. Amend rule 567—62.5(455B) to read as follows:

567—62.5(455B) Federal toxic effluent standards. The following is adopted by reference: 40 CFR Part 129, revised as of July 1, 2005 2006.

ITEM 4. Amend subrule **63.1(1)**, paragraph “a,” to read as follows:

a. The following is adopted by reference: 40 Code of Federal Regulations (CFR) Part 136, revised as of July 1, 2005 2006.

[Filed Without Notice 9/21/06, effective 11/15/06]

[Published 10/11/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5438B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 78, "Amount, Duration, and Scope of Medical and Remedial Services," Chapter 79, "Other Policies Relating to Providers of Medical and Remedial Care," Chapter 93, "PROMISE JOBS Program," Chapter 150, "Purchase of Service," Chapter 156, "Payments for Foster Care and Foster Parent Training," and Chapter 185, "Rehabilitative Treatment Services," Iowa Administrative Code.

In 2006 Iowa Acts, House File 2734, section 30, the General Assembly directed the Department to increase a number of reimbursement rates. To implement these changes, the following rules were Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on July 5, 2006:

- **ARC 5210B**, which amended Chapter 79 to implement a 3 percent increase in reimbursement rates for most Medicaid providers, including many home- and community-based waiver services and providers. Notice of Intended Action on these amendments was published on the same date as **ARC 5194B**.

- **ARC 5207B**, which amended Chapters 150 and 156 to implement a 3 percent across-the-board increase for social service providers and to clarify language about shelter care payment, in conformity with 2006 Iowa Acts, House File 2734, section 17(5). Notice of Intended Action on these amendments was published on the same date as **ARC 5203B**.

- **ARC 5206B**, which amended Chapter 156 to increase the basic reimbursement rates for foster family care, supervised apartment living, and adoption maintenance subsidy to 65 percent of the USDA estimate of the cost to raise a child in 2005. Notice of Intended Action on these amendments was published on the same date as **ARC 5197B**.

- **ARC 5204B**, which amended Chapter 185 to implement a 3 percent cost-of-living adjustment to reimbursement rates negotiated for rehabilitative treatment and supportive services. Notice of Intended Action on these amendments was published on the same date as **ARC 5199B**.

Also, in 2006 Iowa Acts, House File 2734, section 7(4d), the General Assembly appropriated funds to continue the PROMISE JOBS transportation reimbursement at 30 cents per mile during state fiscal year 2007 to match the Medicaid rate for nonemergency transportation. These amendments were also Adopted and Filed Emergency and were published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5209B**, with Notice of Intended Action published on the same date as **ARC 5195B**.

The Department has received no comment on any of these Notices of Intended Action. However, Item 3, which amends paragraph 79.1(5)"y," subparagraphs (2), (5), and (8), and Item 5, which amends subparagraph 79.1(16)"v"(2), have been added. The updated allocations to reflect the 3 percent increase for direct and indirect medical education and disproportionate share payments for inpatient hospital services and for direct medical education payments for outpatient hospital services were inadvertently omitted from the emergency filing.

Paragraph 79.1(5)"y," subparagraphs (2), (5), and (8), read as follows:

"(2) Allocation to fund for direct medical education. Except as reduced pursuant to subparagraph 79.1(5)"y"(3), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to inpatient services for July 1, 2006, through June 30, 2007, is \$8,556,547.

"(5) Allocation to fund for indirect medical education. Except as reduced pursuant to subparagraph 79.1(5)"y"(6), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for indirect medical education for July 1, 2006, through June 30, 2007, is \$15,023,862.

"(8) Allocation to fund for disproportionate share. The total amount of funding that is allocated to the graduate medical education and disproportionate share fund for disproportionate share payments for July 1, 2006, through June 30, 2007, is \$7,181,823."

Subparagraph 79.1(16)"v"(2) reads as follows:

"(2) Allocation to fund for direct medical education. Except as reduced pursuant to subparagraph 79.1(16)"v"(3), the total amount of funding that is allocated to the graduate medical education and disproportionate share fund for direct medical education related to outpatient services for July 1, 2006, through June 30, 2007, is \$2,893,524."

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Council on Human Services adopted these amendments on September 13, 2006.

These amendments shall become effective November 16, 2006, at which time the Adopted and Filed Emergency rules are hereby rescinded.

These amendments are intended to implement Iowa Code sections 234.6, 234.35, 239B.8(2), and 249A.4 and 2006 Iowa Acts, House File 2734, sections 7(4d), 17(5), and 30.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [78.13(5)"a," 79.1(2), 79.1(5)"y," 79.1(8)"g," 79.1(16)"v"(2), 93.110(6)"b," 150.3(5)"p," 156.6(1), 156.6(4), 156.8(7), 156.8(8), 156.11(3), 185.112(1)"k," 185.112(14)] is being omitted. With the exception of the changes noted above, these amendments are identical to those published under Notice as **ARCs 5194B, 5203B, 5197B, 5199B and 5195B** and Adopted and Filed Emergency as **ARCs 5210B, 5207B, 5206B, 5204B and 5209B**, IAB 7/5/06.

[Filed 9/19/06, effective 11/16/06]

[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5436B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 92, "Iowa-Care," Iowa Administrative Code.

HUMAN SERVICES DEPARTMENT[441](cont'd)

Effective July 1, 2005, the Department implemented the medical expansion program known as IowaCare, as authorized by Iowa Code Supplement chapter 249J and a federal waiver of Medicaid eligibility and benefits requirements approved under Section 1115 of the Social Security Act. Rules implementing the program were initially Adopted and Filed Emergency, published in the Iowa Administrative Bulletin on August 3, 2005, as **ARC 4398B**, and later were Adopted and Filed and published in the Iowa Administrative Bulletin on January 4, 2006, as **ARC 4799B**.

Members under the program are certified for a period of 12 months. With the first group of members approaching the end of their certification period, the Department has realized that the initial rules do not clearly or sufficiently address issues faced by members who are reapplying for continued IowaCare benefits. These amendments:

- Clarify that the provision requiring payment of at least four months' premiums applies to the person's continuous enrollment period, not to each certification period. The definition and use of the term "mandatory months" are eliminated. This change is in conformity with statutory amendments included in 2006 Iowa Acts, House File 2734, section 115.
- Provide for a different form to be used for reapplications. Since the initial application form does not contain a local office address or worker identification, it is not efficient to use this form for renewal applications. The renewal form will be mailed to the member to serve as a reminder that a new application is due and will include specific filing information. The data collected on both forms is the same, but the renewal application is shorter since less explanatory information is needed and the application can be mailed at a reduced cost.
- Allow a longer time for workers to determine eligibility on a renewal application, as long as the decision can be made timely to avoid an interruption of coverage.
- Clarify that IowaCare applicants and recipients are now required to verify their citizenship or alien status, according to Section 6036 of the Deficit Reduction Act of 2005.

Clarify that IowaCare eligibility is not available to people who qualify for Medicaid under the new coverage group for independent young adults that was established by 2006 Iowa Acts, Senate File 2217.

These amendments also include technical changes to:

- Update implementation citations and statutory references to reflect the codification of the IowaCare Act.
- Update the premium table to reflect the application of increases in federal poverty level guidelines that were implemented April 1, 2006, as provided in 441 IAC 92.7(1)"b." These changes resulted in minor increases in premiums for members at some poverty levels and in minor decreases in premiums for members whose income is at a lower level now because the dollar amounts represented by the poverty levels have increased. Premiums do not change during the 12-month certification period. For members eligible before April 1, 2006, the revised premium amounts will apply to their next certification period.

These amendments do not provide for waivers in specified situations because the amendments provide clarifications, updates, or benefits to those affected. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

These amendments were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5218B**. Notice of Intended Action to solicit public comment on these amendments was published in the

Iowa Administrative Bulletin on the same date as **ARC 5201B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on September 13, 2006.

These amendments are intended to implement Iowa Code Supplement chapter 249J.

These amendments shall become effective November 16, 2006, at which time the Adopted and Filed Emergency rules are hereby rescinded.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [Ch 92 preamble, 92.1 to 92.15] is being omitted. These amendments are identical to those published under Notice as **ARC 5201B** and Adopted and Filed Emergency as **ARC 5218B**, IAB 7/5/06.

[Filed 9/19/06, effective 11/16/06]

[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5434B**HUMAN SERVICES
DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 237.3, 237.5A, and 600.7A, the Department of Human Services amends Chapter 113, "Licensing and Regulation of Foster Family Homes," and Chapter 200, "Adoption Services," Iowa Administrative Code.

These amendments incorporate statutory changes that allow the Department to waive all or part of the 30-hour preservice training program that is required of people applying to become foster parents and apply the same standard to prospective adoptive parents. The Department may waive the training requirement when:

- The Department determines that the applicant has a combination of training and experience that is an acceptable equivalent to the preservice training, such as foster parent training received in another state; or
- The Department finds good cause for the waiver based on the circumstances of the applicant and a particular child who may be placed with the applicant. This provision may remove barriers to placement with relatives.

The amendments also remove time-limited transitional provisions used when the 30-hour training requirements were implemented. These provisions are no longer needed.

These amendments do not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

These amendments were previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5208B**. Notice of Intended Action to solicit comments on the amendments was published in the Iowa Administrative Bulletin on the same date as **ARC 5196B**. The Department received no comments on these amendments. These amendments are identical to those

HUMAN SERVICES DEPARTMENT[441](cont'd)

Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted these amendments on September 14, 2006.

These amendments are intended to implement Iowa Code section 237.5A as amended by 2006 Iowa Acts, Senate File 2217, division IV, and Iowa Code section 600.7A.

These amendments shall become effective November 16, 2006, at which time the Adopted and Filed Emergency rules are hereby rescinded.

The following amendments are adopted.

ITEM 1. Amend subrule **113.8(1)** by rescinding paragraph “c” and adopting the following **new** paragraph in lieu thereof:

c. The department may waive the PS-MAPP training requirement in whole or in part when the department finds that:

(1) The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

(2) There is good cause for the waiver based upon the circumstances of the child and the applicant.

ITEM 2. Amend subrule **200.4(4)**, paragraph “a,” by rescinding subparagraph (3) and adopting the following **new** subparagraph in lieu thereof:

(3) The department may waive the PS-MAPP training requirement in whole or in part when the department finds that:

1. The applicant has completed relevant training or has a combination of relevant training and experience that is an acceptable equivalent to all or a portion of the required preservice training; or

2. There is good cause for the waiver based upon the circumstances of the child and the applicant.

[Filed 9/19/06, effective 11/16/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5435B

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 600.22, the Department of Human Services amends Chapter 201, “Subsidized Adoptions,” Iowa Administrative Code.

This amendment gives the adoption subsidy program the authority to reimburse adoptive parents an additional \$200 per child for reasonable court costs and other nonrecurring expenses. The program had a \$500 limit on the reimbursement of nonrecurring fees, including attorney fees. Under this amendment, the Department may reimburse up to a maximum of \$700 per child for nonrecurring fees.

The amendment also makes a technical change to clarify that nonrecurring expenses may be reimbursed under either a current adoption subsidy agreement or an agreement for future subsidy.

This amendment does not provide for waivers in specified situations. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

This amendment was previously Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5205B**. Notice of Intended Action to solicit comments on the amendment was published in the Iowa Administrative Bulletin on the same date as **ARC 5198B**. The Department received no comments on this amendment. This amendment is identical to that Adopted and Filed Emergency and published under Notice of Intended Action.

The Council on Human Services adopted this amendment on September 13, 2006.

This amendment is intended to implement Iowa Code section 600.17.

This amendment shall become effective November 16, 2006, at which time the Adopted and Filed Emergency rule is hereby rescinded.

The following amendment is adopted.

Amend subrule **201.6(1)**, paragraph “a,” subparagraph (7), as follows:

(7) Nonrecurring expenses. Payment for nonrecurring expenses is *generally* limited to \$500 per child. *An additional \$200 may be allowed for reasonable court costs and other related legal expenses.* Nonrecurring expenses may be paid when the adoptive family has negotiated an *Adoption Subsidy Agreement, Form 470-0747, or an Agreement to Future Adoption Subsidy, Form 470-0762.*

[Filed 9/19/06, effective 11/16/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5432B

INSPECTIONS AND APPEALS DEPARTMENT[481]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 57, “Residential Care Facilities,” Chapter 58, “Nursing Facilities,” Chapter 62, “Residential Care Facilities for Persons with Mental Illness (RCF/PMI),” Chapter 63, “Residential Care Facilities for the Mentally Retarded,” Chapter 64, “Intermediate Care Facilities for the Mentally Retarded,” and Chapter 65, “Intermediate Care Facilities for Persons with Mental Illness (ICF/PMI),” Iowa Administrative Code.

The adopted amendments remove from the various chapters confusing and inconsistent language concerning death records of residents. The term “death record” is interpreted by many, including the Iowa Department of Public Health, to mean “death certificate.” A death certificate may be completed only by a licensed physician or medical examiner upon the death of an individual. Additionally, language found at paragraph 58.15(2)“j” requires that, under certain circumstances, a nursing facility obtain a copy of a resident’s death certificate and maintain it in the resident’s medical record.

The Department does not believe it is necessary for a nursing facility to obtain a death certificate for a deceased resident. Rather, notations should be made in the resident’s record indicating the time and date of death of the resident, the circumstances of the resident’s death, such as the resident’s

INSPECTIONS AND APPEALS DEPARTMENT[481](cont'd)

physical condition and vital signs, the disposition of the resident's body, and the date and time that the resident's family and physician were notified of the resident's death. Such notations in the resident's record are sufficient to document a resident's death, without requiring that a copy of the death certificate be obtained.

Item 5 corrects an omission from the rules governing intermediate care facilities for the mentally retarded by adding a new rule regarding resident records, including language concerning resident death records. Adoption of the rule makes record requirements in Chapter 64 consistent with those for all regulated long-term care facilities.

The amendments were initially reviewed by the State Board of Health at its July 12, 2006, meeting and were approved by the Board at its September 13, 2006, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5261B**. No public comments were received on the amendments. The adopted amendments are identical to those published under Notice of Intended Action.

These amendments will become effective November 15, 2006.

These amendments are intended to implement Iowa Code sections 10A.104(5) and 135C.14.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [57.16(1), 58.15(2), 62.18(1), 63.17(1), 64.18, 65.20(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 5261B**, IAB 8/2/06.

[Filed 9/20/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5433B**INSPECTIONS AND APPEALS
DEPARTMENT[481]****Adopted and Filed**

Pursuant to the authority of Iowa Code sections 10A.104(5) and 135C.14, the Department of Inspections and Appeals hereby amends Chapter 64, "Intermediate Care Facilities for the Mentally Retarded," Iowa Administrative Code.

The adopted amendment corrects an error in the rule pertaining to contractual services for which facilities may receive reimbursement from the state Medical Assistance Program. The current rule states that facilities shall hold open a resident's bed for at least 18 days per year. The amendment changes the number of days a resident's bed may be held open to at least 30 days per year and further provides that either a physician or a qualified mental retardation professional may authorize a resident's temporary absence from the facility. These changes are consistent with the procedures used by the Medical Assistance Program.

The State Board of Health reviewed the proposed amendment at its July 12, 2006, meeting and approved the amendment at its September 13, 2006, meeting.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5260B**. No

public comments were received on the amendment. The adopted amendment is identical to the one published under Notice of Intended Action.

This amendment will become effective November 15, 2006.

This amendment is intended to implement Iowa Code sections 10A.104(5) and 135C.14.

The following amendment is adopted.

Amend subrule **64.17(7)**, paragraph "**b**," as follows:

b. If a resident has a temporary absence from a facility for therapeutic reasons as approved by a physician or *qualified mental retardation professional*, the facility shall ask if the resident or responsible party if ~~they wish~~ *wishes that* the bed ~~be~~ held open. This *request* shall be documented in the resident's record, including the response. The bed shall be held open at least 48 ~~30~~ days per year, and the facility shall receive payment for the absent periods in accordance with the provisions of the contract. The required holding during temporary absences for therapeutic reasons is limited to 48 30 days per year. (II)

[Filed 9/20/06, effective 11/15/06]
[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5444B**INSURANCE DIVISION[191]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 505.8 and chapter 514D, the Insurance Division hereby amends Chapter 36, "Individual Accident and Health—Minimum Standards," Iowa Administrative Code.

The rules in Chapter 36 provide reasonable standardization and simplification of terms and coverages of individual accident and sickness insurance policies and individual subscriber contracts of hospital, medical, and dental service corporations. The amendments to the rules are in accordance with model language issued by the National Association of Insurance Commissioners. Iowa insurance companies and producers shall comply with the rules beginning January 1, 2007, for policies issued on or after January 1, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5322B**. A public hearing was held on September 5, 2006, at 10 a.m. in the conference room of the Iowa Insurance Division, 330 Maple Street, Des Moines, Iowa 50319. No one appeared at the hearing. No written comments or suggestions were received by the Division regarding the proposed amendments. These amendments are identical to those published under Notice of Intended Action.

These amendments are intended to implement Iowa Code chapter 514D.

These amendments will become effective November 15, 2006.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [36.5(6), 36.6] is being omitted. These

INSURANCE DIVISION[191](cont'd)

amendments are identical to those published under Notice as **ARC 5322B**, IAB 8/16/06.

[Filed 9/22/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5455B

INTERIOR DESIGN EXAMINING BOARD[193G]

Adopted and Filed

Pursuant to the authority of 2005 Iowa Code Supplement section 544C.3, the Interior Design Examining Board hereby adopts new Chapter 1, "Description of Organization," and new Chapter 2, "Registration," Iowa Administrative Code.

Chapter 1 provides structure and organization for the Board, and Chapter 2 includes transition rules for applicants to register as interior designers through June 30, 2007.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 16, 2006, as **ARC 5311B**.

A public hearing on the proposed rules was held September 15, 2006, at 9 a.m. in the Second Floor Conference Room, Professional Licensing and Regulation Bureau, 1920 S.E. Hulsizer Road, Ankeny, Iowa. No one attended the public hearing.

To clarify the Board's intent, the words "all of" were added to the introductory paragraph of subrule 2.1(3) so that the registrant understands that all of the requirements listed in the rule must be met.

Subrule 2.1(3) reads as follows:

"2.1(3) Transition provisions. For a period of two years from July 1, 2005, the board may issue a certificate as a registered interior designer to a person residing in Iowa who does not meet the examination requirements specified in Iowa Code Supplement section 544C.5, if the person satisfies all of the following:

"a. Has a minimum of two years of interior design education and a combined total of six years of interior design education and acceptable experience.

"b. Has successfully completed Section 1 of the NCIDQ examination relating to life safety codes and barrier-free requirements.

"c. Has submitted a completed application by June 30, 2007."

These rules were adopted by the Interior Design Examining Board on September 20, 2006.

These rules will become effective November 15, 2006.

These rules are intended to implement Iowa Code chapter 272C and Iowa Code Supplement chapter 544C.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these rules [Chs 1, 2] is being omitted. With the exception of the change noted above, these rules are identical to those published under Notice as **ARC 5311B**, IAB 8/16/06.

[Filed 9/21/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5452B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(15), 16.5(17), 16.91(7), 16.91(8) and 16.93, the Iowa Finance Authority hereby amends Chapter 9, "Title Guaranty Division," Iowa Administrative Code.

The purpose of this amendment is to establish procedures and requirements for closing protection letters. Rule 265—9.22(16) is added to implement Iowa Code section 16.93, which authorizes the issuance of closing protection letters.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5293B**. The Authority received written comments on the rules. The Authority also received less formal feedback on the rules in the form of in-person and telephone communications.

As a result of the public comments received, the adopted rule making contains a variety of changes from the proposed rules published under Notice of Intended Action. The changes from the Notice are as follows: The definition of "closing protection letter" was amended to provide for the indemnification of an owner; the term "division escrow disbursement trust account" was changed to "division escrow account"; the portion of paragraph 9.22(2)"d" requiring the division closer to issue the division commitment was deleted; paragraph "c" of subrule 9.22(6) was not adopted; proposed new rule 265—9.23(16) regarding the procedures for suspension or termination of participants was not adopted.

The Iowa Finance Authority adopted this amendment on September 13, 2006.

This amendment is intended to implement Iowa Code sections 16.5(15), 16.5(17), 16.91(8), and 16.93.

This amendment will become effective on November 15, 2006.

The following amendment is adopted.

Adopt the following new rule 265—9.22(16):

265—9.22(16) Closing protection letters.

9.22(1) Definitions. The following words and phrases, when used in this rule and in the program requirements, applications and instructions adopted by the division board pursuant thereto, shall have the meanings set forth below unless inconsistent with the manifest intent or the context of the rules:

"Certificate" means division certificate, including any part or schedule thereof and any endorsements thereto.

"Closing protection letter" means an agreement by the division to indemnify a lender or owner for loss caused by a division closer's theft of settlement funds or failure to comply with written closing instructions relating to title certificate coverage when agreed to by the division closer.

"Commitment" means division commitment to guarantee title, including any part or schedule thereof and any endorsements thereto.

"Division" means title guaranty division, a division of the Iowa finance authority.

"Division board" means the board of the title guaranty division created pursuant to Iowa Code section 16.2(1).

"Division closer" means a participating attorney or participating abstractor who is currently authorized by the division to close division commitments under protection of a closing protection letter.

IOWA FINANCE AUTHORITY[265](cont'd)

"Division closing" means a settlement in which a division closer is appointed to finalize a real estate transaction in accordance with general and specific instructions prior to disbursement of the loan proceeds and for which a closing protection letter is issued.

"Division escrow account" means, in conjunction with division closings, escrows, settlements, and title indemnities, any checking account utilized for the purpose of handling:

1. Deposits including, but not limited to, the acceptance of incoming funds from the lender or borrower or both; and
2. Disbursements including, but not limited to, sellers' proceeds, mortgage payoffs, expenses of sale, and professional fees.

However, "division escrow account" shall not include client trust accounts subject to the requirements of chapter 45 of the Iowa Court Rules.

"Form" or "forms" means printed instruments used in guaranteeing title to Iowa real estate that, when completed and executed, create contractual obligations or rights affecting the division.

"Participant" means a participating attorney or participating abstractor in good standing with the division.

9.22(2) Issuance of closing protection letters. Division closers may be authorized to receive a closing protection letter when:

- a. The division board has approved a closing protection letter program, recommended by the division, which may be revised from time to time by the division upon approval of the division board.
- b. A division closer has completed division forms and procedures training.
- c. The division director has approved the participant's application.
- d. A division commitment is issued.

9.22(3) Effective date of program. A participant may apply to the division to act as a division closer and be authorized to receive closing protection letters for acts or omissions by the division closer occurring on or after November 1, 2006.

9.22(4) Application. Application for designation of division closer status shall be on forms provided by the division, and all requested information shall be provided on or with the application form. The division may consider an application withdrawn if it does not contain all of the information required and the information is not submitted to the division within 30 days after the division requests the information. The application shall be accompanied by a fee to be set by the division board.

9.22(5) Additional requirements. The division board may adopt program guidelines and application requirements such as indemnity agreements, criminal background checks, and insurance requirements.

9.22(6) Authority of division closer.

a. A division closer is authorized to conduct division closings and issue commitments and certificates only for the purposes and in the manner set forth in the division closer's participating agreement, the Code of Iowa, these rules, manuals, requirements and any other instructions given by the division and in no other manner whatsoever. The authority of the division closer under the preceding sentence is not exclusive and is subject to the rights of the authority, the division and other division closers or participants of the division to transact the business of guaranteeing titles to real estate in Iowa and is further subject to the right of the division to appoint other division closers and participants.

b. A division closer shall obtain the written authorization of the division's legal staff prior to issuing a commitment or certificate which exceeds such amounts as the division board

may set from time to time by resolution. If any authorization required under this rule is not obtained through the act or omission of the division closer, the division closer shall be strictly liable to the division for any loss or damage resulting from issuance of the commitment or certificate.

9.22(7) Division escrow accounts. The division board shall approve procedures and requirements for the maintenance of division escrow accounts. Division closers shall comply with the rules and requirements set by the division board with respect to the procedures, format, and style for maintaining the division escrow accounts. The division board may require the division closer to provide an irrevocable letter of direction to the institution at which each division escrow account is established, authorizing the division to review and audit the institution's records of such account at any such time that the division, in its discretion, deems necessary.

9.22(8) Division forms. A division closer shall not change preprinted portions of the division forms without the division's prior written authorization. A division closer shall not use a form supplied by another person or entity to bind the division, or otherwise bind the division to liability with a form, other writing or representation not supplied or authorized by the division, and any attempt to do so shall be ineffective.

9.22(9) Title/closing files. A division closer shall maintain files in such a manner that information pertaining to closings and issuance of division commitments, certificates, and endorsements is readily available to the division. A division closer shall maintain title files and the title portion of client files for a period of ten years after the effective date of the certificate(s).

9.22(10) Training. The division director may require a division closer and the division closer staff to attend training sessions or continuing education seminars as deemed necessary by the division director in order to ensure compliance with division procedures.

9.22(11) Office audits.

a. In accordance with subrule 9.12(2), the division may, with or without notice to a division closer, audit the division closer at the division closer's office. This audit may include a review of the division closer's division escrow account(s) and closing procedures, including verification of the division closer's compliance with division rules, participation agreements, manuals, and any other written or oral instructions given by the division.

b. The division may, with or without notice, audit the division closer's division escrow account(s).

c. Procedures for audits shall be conducted pursuant to standards and procedures approved by the division board.

[Filed 9/21/06, effective 11/15/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5456B

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 17A.3(1)"b," 16.5(15), 16.5(17), and 16.183, the Iowa Finance Authority amends Chapter 21, "Home and

IOWA FINANCE AUTHORITY[265](cont'd)

Community-Based Services Revolving Loan Program," Iowa Administrative Code.

The purpose of these amendments is to implement Iowa Code section 16.183 as amended by 2006 Iowa Acts, House File 2734, section 34, which adds health and wellness, health screening, and nutritional assessments to the specific community-based services whose development and expansion the Authority shall seek to assist. The amendments reflect that directive and set forth certain criteria that must be met by projects in order to be eligible for assistance under the Home and Community-Based Services Revolving Loan Program with respect to each of the added program areas.

Chapter 21 does not provide for waivers. Persons seeking waivers from the rules contained in Chapter 21 may petition the Authority for a waiver in the manner set forth under Chapter 18.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5292B**. The Authority received no written comments on the amendments. These amendments are identical to those published under Notice of Intended Action.

The Iowa Finance Authority adopted these amendments on September 13, 2006.

These amendments will become effective on November 15, 2006.

These amendments are intended to implement Iowa Code sections 16.5(15) and 16.5(17) and section 16.183 as amended by 2006 Iowa Acts, House File 2734, section 34.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [21.1, 21.3, 21.5(1)] is being omitted. These amendments are identical to those published under Notice as **ARC 5292B**, IAB 8/2/06.

[Filed 9/21/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5454B

PAROLE BOARD[205]

Adopted and Filed

Pursuant to the authority of Iowa Code section 906.3, the Board of Parole hereby amends Chapters 1 through 5, Iowa Administrative Code.

These amendments simply change the address of the Board of Parole. The former address was Holmes Murphy Building, 420 Watson Powell Jr. Way, Des Moines, Iowa 50309. The new address is 510 East Twelfth Street, Des Moines, Iowa 50319.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5188B**. The Board received no public comments on the proposed amendments. The adopted amendments are identical to those published under Notice.

The amendments were adopted during the Board's September 7, 2006, meeting.

These amendments will become effective November 15, 2006.

These amendments are intended to implement Iowa Code chapters 17A and 904A.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [1.3, 2.5(1), 2.6(2), 3.1, 3.3, 4.1, 4.3(3), 4.5, 4.6(2), 5.3(1), 5.6] is being omitted. These amendments are identical to those published under Notice as **ARC 5188B**, IAB 7/5/06.

[Filed 9/21/06, effective 11/15/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5421B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 135.11 and 135.131, the Department of Public Health hereby amends Chapter 3, "Early Hearing Detection and Intervention," Iowa Administrative Code.

This chapter contains rules for the universal hearing screening of all newborns and infants in Iowa and the transfer of data to the Department to enhance the capacity of agencies and practitioners to provide services to children and their families. The goal of universal hearing screening of all newborns and infants in Iowa is early detection of hearing loss to allow children and their families the opportunity to obtain early intervention services.

These amendments allow sharing of newborn hearing screening information with states bordering Iowa through an agreement with the Department to the extent that the information is necessary to perform newborn hearing screening follow-up. The amendments also clarify which form is to be used if a parent objects to the hearing screening.

Notice of Intended Action was published in the Iowa Administrative Bulletin on July 19, 2006, as **ARC 5233B**. The only public comment received was in support of the amendments. Changes in Item 1 of the amendments published under Notice were made based on further internal review. Paragraph "d" of subrule 3.10(3) is now being amended by deleting the second sentence. New paragraph "e" was changed by removing the part of the first sentence which requires an agreement with the Department and by changing "will" to "shall" in the second sentence.

The State Board of Health adopted these amendments on September 13, 2006.

These amendments are intended to implement Iowa Code section 135.131.

These amendments will become effective on November 15, 2006.

The following amendments are adopted.

ITEM 1. Amend subrule **3.10(3)** as follows:

Amend paragraph "**d**" as follows:

d. A representative of a federal or state agency, to the extent that the information is necessary to perform a legally authorized function of that agency. ~~The information provided may not include the personal identifiers of an infant or child.~~

Add the following **new** paragraph "**e**":

e. A representative of a state agency, or an entity bound by that state, to the extent that the information is necessary to perform newborn hearing screening follow-up. The state

PUBLIC HEALTH DEPARTMENT[641](cont'd)

agency or the entity bound by that state shall be subject to confidentiality regulations that are the same as or more stringent than those in the state of Iowa. The state agency or the entity bound by that state shall not use the information obtained from the department to market services to patients or nonpatients or identify patients for any purposes other than those expressly provided in this rule.

ITEM 2. Amend subrule 3.12(1) as follows:

3.12(1) If a parent objects to the screening, the birthing hospital, birth center, physician, or other health care professional shall obtain a written refusal from the parent or guardian *on the department newborn hearing screening refusal form* and shall maintain the original copy of the written refusal in the newborn's or infant's medical record.

ITEM 3. Amend subrule 3.12(2) as follows:

3.12(2) The birthing hospital, birth center, physician, or other health care professional shall send a copy of the written *newborn hearing screening refusal form* to the department within six days of the birth of the newborn.

[Filed 9/18/06, effective 11/15/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5422B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 136B.1, the Department of Public Health hereby amends Chapter 43, "Minimum Requirements for Radon Testing and Analysis," and Chapter 44, "Minimum Requirements for Radon Mitigation," Iowa Administrative Code.

These amendments incorporate changes to correct references, delete obsolete rules, clarify testing and mitigation requirements, and make changes in conjunction with the U.S. Environmental Protection Agency Radon Mitigation Standards.

Notice of Intended Action was published in the Iowa Administrative Bulletin on August 2, 2006, as **ARC 5259B**. No persons attended the public hearing held on August 22, 2006. No written comments were received. These amendments are identical to those published under Notice of Intended Action.

The State Board of Health adopted these amendments on September 13, 2006.

These amendments will become effective on November 15, 2006.

These amendments are intended to implement Iowa Code chapter 136B.

EDITOR'S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [amendments to Chs 43 and 44] is being omitted. These amendments are identical to those published under Notice as **ARC 5259B**, IAB 8/2/06.

[Filed 9/18/06, effective 11/15/06]

[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5457B

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed Without Notice

Pursuant to the authority of Iowa Code subsection 139A.21(7), the Department of Public Health hereby amends Chapter 71, "Emergency Information System on Pesticides for Use by Health Care Providers During Medical Emergencies," Iowa Administrative Code.

These amendments correct references to the Iowa Code that have changed since Chapter 71 was last amended.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are unnecessary because these amendments are simply replacing outdated Iowa Code references with current Iowa Code references. This will enable the public to find the current and correct Iowa Code sections more quickly.

The State Board of Health adopted these amendments on September 13, 2006.

These amendments are intended to implement Iowa Code subsection 139A.21(7).

These amendments will become effective on November 15, 2006.

A fiscal impact summary prepared by the Legislative Services Agency pursuant to Iowa Code § 17A.4(3) will be available at <http://www.legis.state.ia.us/IAC.html> or at (515) 281-5279 prior to the Administrative Rules Review Committee's review of this rule making.

The following amendments are adopted.

ITEM 1. Amend rules **641—71.1(139)** to **641—71.3(139)**, parenthetical implementations, by striking "139" and inserting "139A" in lieu thereof.

ITEM 2. Amend subrule **71.3(1)**, paragraphs "**a**" and "**b**," by striking the word "Supplement" wherever it appears.

ITEM 3. Amend subrule **71.3(1)**, paragraph "**h**," as follows:

h. Provide to poison control centers, defined in Iowa Code ~~Supplement~~ subsection ~~206.2(22)~~ **206.2(24)**, the telephone number(s) to be used to obtain treatment information for a person exposed to a registrant's product.

ITEM 4. Amend **641—Chapter 71**, implementation clause, as follows:

These rules are intended to implement Iowa Code ~~Supplement~~ subsection ~~139.35(7)~~ **139A.21(7)**.

[Filed Without Notice 9/21/06, effective 11/15/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5427B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 100.35, the Department of Public Safety hereby amends Chapter 5, "Fire Marshal," Iowa Administrative Code.

Authority for establishment and enforcement of fire safety requirements in Iowa is shared by the State Fire Marshal and cities and counties. Rules of the State Fire Marshal apply statewide and may be supplemented by a local fire safety ordinance. However, fire inspection personnel of the Fire Marshal Division are limited to enforcement of the rules of the Fire Marshal.

The Labor Commissioner and the Elevator Safety Board have regulatory authority over elevators in the state of Iowa. Certain requirements for the safe operation of elevators relate to mitigating fire hazards in elevators and in associated areas, especially elevator machine rooms. In order for such requirements to be enforced by personnel of both agencies and to be enforced uniformly, there needs to be consistency between the state elevator code, which is adopted by the Elevator Safety Board and enforced by the Labor Commissioner, and the rules of the Fire Marshal.

The Elevator Safety Board has adopted requirements related to sprinkler installations in elevator hoistways and elevator machine rooms. The rule adopted herein provides coordination and consistency with the rules adopted by the Elevator Safety Board.

This amendment was proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 5, 2006, as **ARC 5186B**. A public hearing on this proposed amendment was held on August 4, 2006. One comment was received at the hearing, with the commenter generally supporting the proposed rule and recommending that the adopted rule explicitly restrict access to machine rooms. Also, written and verbal comments were received from members of the fire service in Iowa supporting and opposing the proposed rule. Particular concern was expressed regarding a provision in the proposed rule which would bar the installation or use of sprinklers in elevator machine rooms.

In light of the comments received, the adopted rule differs from the proposed rule in two significant ways: (1) the language in the proposed rule which would have barred sprinklers in elevator machine rooms has been modified to clarify that sprinklers may be installed and used in machine rooms, but are required only if a local fire ordinance or other provision of law, such as a federal regulation, requires sprinklers, and to clarify that, if a sprinkler is in use in a machine room, then the installation must be in compliance with rule 875—73.25(89A) of the Elevator Safety Board; and (2) requirements for security in elevator machine rooms are made explicit and follow the requirements established in rules of the Elevator Safety Board.

This amendment is intended to implement Iowa Code sections 100.1 and 100.35.

This amendment shall become effective on December 1, 2006.

The following amendment is adopted.

Adopt the following new rule:

661—5.52(100) Sprinklers in elevators.

5.52(1) Sprinklers in hoistways. When a sprinkler is installed in a hoistway, the installation shall comply with rule 875—73.25(89A), adopted by the elevator safety board.

5.52(2) Elevator machine rooms.

a. Sprinklers are not required in elevator machine rooms, unless required by another provision of law, such as a local fire ordinance or an applicable federal regulation. When a sprinkler is installed in an elevator machine room, the installation shall comply with rule 875—73.25(89A).

b. Storage of any equipment or materials, other than equipment directly related to elevator operation, shall not be allowed in elevator machine rooms.

c. Each elevator machine room shall have a smoke detector and a heat detector, each of which shall be connected to the building's fire alarm system.

d. Security shall be maintained in elevator machine rooms in accordance with the provisions of the applicable standards adopted by the elevator safety board, as set forth in rule 875—72.1(89A). "Security" includes, but is not limited to, restriction of access to machine rooms to authorized personnel only and limitations on the duplication and distribution of keys to machine rooms. If none of the standards adopted in rule 875—72.1(89A) apply, then access to elevator machine rooms shall be limited to authorized personnel only.

This rule is intended to implement Iowa Code sections 100.1 and 100.35.

[Filed 9/20/06, effective 12/1/06]

[Published 10/11/06]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

ARC 5446B**PUBLIC SAFETY
DEPARTMENT[661]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 97A.5, the Board of Trustees of the Iowa Department of Public Safety Peace Officers' Retirement, Accident, and Disability System hereby amends Chapter 400, "Peace Officers' Retirement, Accident, and Disability System—Governance and Administration," rescinds Chapter 401, "Peace Officers' Retirement, Accident, and Disability System—Administrative Procedures," and adopts a new Chapter 401 with the same title, and amends Chapter 402, "Peace Officers' Retirement, Accident, and Disability System—Eligibility, Benefits, and Payments," Iowa Administrative Code.

The amendment to the definition of "line-of-duty death" in Item 1 is intended to implement changes to Iowa Code section 100B enacted in 2006 Iowa Acts, House File 2665. Item 1 also includes a definition of the term "temporary" for the purposes of better defining the time period for the eligibility for temporary incapacity benefits.

The amendment in Item 2 sets forth the make-up and duties of the medical board that serves the Public Safety Peace Officers' Retirement, Accident, and Disability System.

Item 3 in effect reorganizes the content of Chapter 401 and includes a procedural section on declaratory orders.

PUBLIC SAFETY DEPARTMENT[661](cont'd)

The amendment in Item 4 adds to Chapter 402 a new division, which is intended to implement 2006 Iowa Acts, Senate File 2199. This division provides procedures and criteria for purchase of permissive service credit, which will enable some members to “buy back” certain periods of previous service as a fire fighter or peace officer and to receive credit in the Public Safety Peace Officers’ Retirement, Accident, and Disability System for that service.

These amendments were proposed in a Notice of Intended Action published in the Iowa Administrative Bulletin on July 19, 2006 as **ARC 5231B**. A public hearing on the proposed amendments was held on August 10, 2006. Several comments were received during the hearing and otherwise. All of the comments received related to the purchase of permissive service credit. A request to allow for purchases to be made through payment plans was received. Another request was made that all expenses for obtaining actuarial estimates be borne by the system, rather than the system paying for the first two estimates and then the member paying for any additional estimates requested. In both cases, the Board considered the comments and decided to retain the language of the rules proposed in the Notice of Intended Action. The amendments adopted herein are identical to those proposed in the Notice of Intended Action.

The amendment to the definition of “line-of-duty death” and the new division in Chapter 402 related to purchase of permissive service credit were also Adopted and Filed Emergency effective on July 1, 2006, and published in the Iowa Administrative Bulletin on July 19, 2006, as **ARC 5232B**.

These amendments are intended to implement Iowa Code chapter 97A as amended by 2006 Iowa Acts, House File 2665, and 2006 Iowa Acts, Senate File 2199.

These amendments will become effective on December 1, 2006.

EDITOR’S NOTE: Pursuant to recommendation of the Administrative Rules Review Committee published in the Iowa Administrative Bulletin, September 10, 1986, the text of these amendments [400.2, 400.10, Ch 401, 402.300 to 402.306] is being omitted. These amendments are identical to those published under Notice as **ARC 5231B**, IAB 7/19/06.

[Filed 9/20/06, effective 12/1/06]
[Published 10/11/06]

[For replacement pages for IAC, see IAC Supplement 10/11/06.]

ARC 5428B

TRANSPORTATION DEPARTMENT[761]

Adopted and Filed

Pursuant to the authority of Iowa Code sections 307.10 and 307.12, the Department of Transportation, on September 12, 2006, adopted an amendment to rescind Chapter 26, “Consent for the Sale of Goods and Services,” Iowa Administrative Code.

2005 Iowa Acts, chapter 76, section 3, shifted the requirement to adopt rules to specify the method by which officials of a regulatory agency may obtain agency consent to sell goods or services to a person subject to the regulatory authority of the agency from the regulatory agency itself to the Ethics and Campaign Disclosure Board. Therefore, the Department of Transportation is no longer required to have these rules and is rescinding them. The Ethics and Campaign Disclosure Board has adopted rules to comply with 2005 Iowa Acts, chapter 76, section 3; the rules were effective April 5, 2006.

Notice of Intended Action for this amendment was published in the July 19, 2006, Iowa Administrative Bulletin as **ARC 5237B**. This amendment is identical to the one published under Notice of Intended Action.

This amendment is intended to implement Iowa Code chapter 68B.

This amendment will become effective November 15, 2006.

Rule-making action:

Rescind and reserve **761—Chapter 26**.

[Filed 9/19/06, effective 11/15/06]
[Published 10/11/06]

EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 10/11/06.

IOWA ADMINISTRATIVE BULLETIN
Customer Service Center
Department of Administrative Services
Hoover State Office Building, Level A
Des Moines, Iowa 50319

PRSRT STD
U.S. Postage
PAID
Des Moines, Iowa
Permit No. 1195
